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**XXVI - HOME CARE AGENCIES**

**Section 1 – Statutory Authority and Applicability**

- 1.1 The statutory authority for the promulgation of these rules is set forth in Sections 25-1.5-103 and 25-27.5-101, *et seq.*, C.R.S.
- 1.2 A home care agency, as defined herein, shall comply with all applicable federal and state statutes and regulations, including but not limited to, the following:
  - (A) ~~This~~ **The sections of this Chapter XXVI that apply to the classification of license issued.**
  - (B) 6 CCR 1011-1, Chapter II, General Licensure Standards, unless otherwise modified herein.
- 1.3 These regulations incorporate by reference materials originally published elsewhere. Such incorporation does not include later amendments to or editions of the referenced material. The Department of Public Health and Environment maintains copies of the complete text of the incorporated materials for public inspection during regular business hours, and shall provide certified copies of the incorporated material at cost upon request. Information regarding how the incorporated material may be obtained or examined is available from:

Division Director  
 Health Facilities and Emergency Medical Services Division  
 Colorado Department of Public Health and Environment  
 4300 Cherry Creek Drive South  
 Denver, CO 80246  
 Phone: 303-692-2800

Copies of the incorporated materials have been provided to the State Publications Depository and Distribution Center, and are available for interlibrary loan. Any incorporated material may be examined at any state publications depository library.

**Section 2 – ~~Definitions~~ Purpose**

**The purpose of these rules is to implement Title 25, Article 27.5 of the Colorado Revised Statutes and to protect and promote the health and welfare of home care consumers through the establishment and enforcement of regulations setting minimum standards for home care services that does not infringe on accessibility or affordability while establishing accountability to help ensure the safety and well-being of home care consumers.**

**Section 3 - Definitions**

- 3.1 Authorized representative – [to be defined]
- 3.2 “Branch office” means a location or site from which a home health agency provides services within a portion of the total geographic area served by the parent agency. The branch office is part of the home care agency and is located sufficiently close to share administration, supervision, and services in a manner that renders it unnecessary for the branch independently to meet the requirements of this Chapter.
- 3.3 “Bylaws” means a set of rules adopted by a Home Care Agency for governing the agency’s operation.
- 3.4 “Certified Home Care Agency “ means an agency that is certified by either the Federal Centers for Medicare and Medicaid Services (CMS) or the Colorado Department of Health Care Policy and Financing to provide skilled home health or personal care services.
- 3.5 “Clinical note” means a written notation of a contact with a consumer that is signed, **with date and time**, by a member of the home care agency that describes signs and symptoms; treatment; education; drugs administered and the consumer’s reaction; and any changes in physical or emotional condition.
- 3.6 “Department” means the Colorado Department of Public Health and Environment.
- 3.7 “Encounter/Service note” means a written notation **that is signed, with date and time**, by a member of the home care agency evidencing the care furnished.

- 1 3.8 **“Geographic Area” means an area of land, for which the agency shall be licensed,**  
2 **consisting of not more that a 60 mile radius surrounding the home care agency’s**  
3 **primary location. A home care agency that provides a substantial portion of**  
4 **services in one or more rural healthcare shortage areas may apply for an extension**  
5 **of the geographic service area. There is no restriction as to the number of**  
6 **agencies that may provide services in a particular geographic area.**
- 7 3.9 “Home Care Agency” means any sole proprietorship, partnership, association,  
8 corporation, government or governmental subdivision or agency subject to the restrictions  
9 in Section 25-1.5-103(1)(a)(II), C.R.S., not-for-profit agency, or any other legal or  
10 commercial entity that manages and offers, directly or by contract, skilled home health  
11 services or personal care services to a home care consumer in the home care  
12 consumer’s temporary or permanent home or place or residence. Home Care Agency is  
13 also referred to in this Chapter as “HCA” or “agency.”
- 14 (A) A residential facility that delivers skilled home health or personal care services  
15 which the facility is not licensed to otherwise provide, shall either be licensed as  
16 a home care agency or require the skilled home health or personal care services  
17 to be delivered by a licensed home care agency.
- 18 (B) “Home Care Agency” does not include:
- 19 (1) Organizations that provide only housekeeping services;
- 20 (2) Community and rural health networks that furnish home visits for the  
21 purpose of public health monitoring and disease tracking;
- 22 (3) An individual who is not employed by or affiliated with a home care  
23 agency and who acts, alone, without employees or contractors;
- 24 (4) Outpatient rehabilitation agencies and comprehensive outpatient  
25 rehabilitation facilities certified pursuant to Title XVIII or XIX of the “Social  
26 Security Act”, as amended;
- 27 (5) Consumer-directed attendant programs administered by the Colorado  
28 Department of Health Care Policy and Financing;
- 29 (6) Licensed dialysis centers that provide in-home dialysis services,  
30 supplies, and equipment;
- 31 (7) Subject to the requirements of section 25-27.5-103(3), C.R.S., a facility  
32 otherwise licensed by the department; or
- 33 (8) A home care placement agency as defined in this section.
- 34 3.10 “Home care consumer” means a person who receives skilled home health services or  
35 personal care services in his or her temporary or permanent home or place of residence  
36 from a home care agency or home care placement agency.
- 37 3.11 “Home care placement agency” means an organization that, for a fee, provides only  
38 referrals of providers to home care consumers seeking services. A home care placement  
39 agency does not provide skilled home health services or personal care services to a  
40 home care consumer in the home care consumer’s temporary or permanent home or  
41 place of residence directly or by contract. Such organizations shall follow the  
42 requirements of sections 25-27.5-103(2), 25-27.5-104(1)(c), 25-27.5-107, C.R.S., and  
43 section 4 of this Chapter
- 44 **3.12 “Intermediate care provider” means nurse practitioner or physician assistant.**
- 45 3.13 “Parent home care agency” means the agency that develops and maintains  
46 administrative control of branch offices.
- 47 3.14 “Personal care services” means assistance with activities of daily living, including but not  
48 limited to bathing, dressing, eating, transferring, walking or mobility, toileting, and  
49 continence care. It also includes housekeeping, personal laundry, medication reminders,  
50 and companionship services furnished to a home care consumer in the home care  
51 consumer’s temporary or permanent home or place of residence, and those normal daily  
52 routines that the home care consumer could perform for himself or herself were he or she  
53 physically capable, which are intended to enable that individual to remain safely and  
54 comfortably in the home care consumer’s temporary or permanent home or place of  
55 residence.

- 1 3.15 "Plan of Correction" means a written plan prepared by the HCA and submitted to the  
2 department for approval, that specifies the measures the HCA shall take to correct all  
3 cited deficiencies.
- 4 3.16 "Progress note" means a written notation **that is signed, with date and time**, by a  
5 member of the home care agency that summarizes facts about the care furnished and  
6 the consumer's response during a given period of time.
- 7 3.17 "Skilled home health services" means health and medical services furnished to a home  
8 care consumer in the home care consumer's temporary or permanent home or place of  
9 residence that include wound care services; use of medical supplies including drugs and  
10 biologicals prescribed by a physician; in-home infusion services; nursing services; home  
11 health aide or certified nurse aide services that require the supervision of a licensed or  
12 certified health care professional acting within the scope of his or her license or  
13 certificate; occupational therapy; physical therapy; respiratory care services; dietetics and  
14 nutrition counseling services; medication administration; medical social services; and  
15 speech-language pathology services. "Skilled home health services" does not include the  
16 delivery of either durable medical equipment or medical supplies.
- 17 3.18 "State Board" means the State Board of Health.
- 18 3.19 "Subdivision" means a component of a multi-function health agency, such as the home  
19 care department of a hospital or the nursing division of a health department, which  
20 independently meets the licensure requirements for HCAs. A subdivision that has branch  
21 offices is considered a parent agency.
- 22 3.20 "Summary report" means the compilation of the pertinent factors of a home care  
23 consumer's clinical notes and progress notes that is submitted to the home care  
24 consumer's physician.
- 25 3.21 "Supervision" means authoritative procedural guidance by a qualified person for the  
26 accomplishment of a function or activity. Unless otherwise specified in this Chapter, the  
27 supervisor shall be on the premises to supervise an individual.

28 **Section 4 – Placement Agency Registration and Disclosures**

29 **4.1 Registration**

- 30 **(A) On or after June 1, 2009, each home care placement agency shall notify the**  
31 **Department in writing that it provides referrals for home care services to**  
32 **consumers and shall annually update such notice.**
- 33 **(B) The person(s) responsible for the operation of any placement agency that**  
34 **fails to register with the Department may be subject to a civil penalty**  
35 **assessed by the Department of not less than five hundred dollars per year**  
36 **or more than one thousand dollars per year.**
- 37 **(C) The placement agency shall require and document that a criminal history**  
38 **background check has been conducted on any individual seeking to be**  
39 **placed by the agency. The criminal history background check shall be**  
40 **conducted within 90 days before employment of the individual.**

41 **4.2 Disclosures**

- 42 **(A) The placement agency shall provide a written disclosure notice to the**  
43 **consumer or legal representative, before services are rendered, that**  
44 **specifies the service provided by the placement agency and the**  
45 **consumer's obligation regarding employment of the home care worker.**
- 46 **(B) The disclosure notice shall be signed by the consumer or representative**  
47 **before the start of services and shall include information as to who is**  
48 **responsible for the following items:**
- 49 **(1) Liability for the home care worker while in the consumer's home,**
- 50 **(2) Payment of wages to the home care worker.**
- 51 **(3) Payment of employment and social security taxes,**
- 52 **(4) Payment of unemployment, workers' compensation and general**  
53 **liability insurance,**
- 54 **(5) Supervision of the home care worker,**

- 1           (6)     Scheduling of the home care worker,
- 2           (7)     Assignment of duties to the home care worker,
- 3           (8)     Hiring, firing and discipline of the home care worker,
- 4           (9)     Provision of equipment or materials for the home care worker's use  
5                 in providing services to the consumer, and
- 6           (10)    Ensuring home care worker training and qualifications meet the  
7                 needs of the consumer.

8     **Section 5 – Licensing Procedure**

9     5.1    **License Classification**

10           (A)    A home care agency shall be assigned a license classification consistent  
11                 with the type and extent of services provided. The Department shall  
12                 determine the license classification for each HCA applicant based upon the  
13                 following criteria:

14                   Class A – an agency that provides skilled nursing service and at least one  
15                   other therapeutic service such as physical, speech or occupational  
16                   therapy; medical social service or home health aide service. Any agency  
17                   licensed as Class A shall meet and maintain compliance with the federal  
18                   requirements for certification as a home health agency. The Class A  
19                   license includes all other home care classifications (Class B and Class C)  
20                   for all services provided through the same physical address or in an  
21                   approved branch location.

22                   Class B – an agency that provides one or more professional home care  
23                   services, but either does not meet certification requirements or does not  
24                   wish to seek federal certification for home care services. In addition to the  
25                   listed Class A services, an HCA may provide as a single service or in  
26                   combination: wound care, infusion services, respiratory therapy, case  
27                   management which includes in-home visits or care, in-home X-ray and  
28                   diagnostic services, and other in-home services requiring either care or  
29                   oversight by a health professional.

30                   Class C – an agency that provides in-home services including personal  
31                   care services, in-home support services, independent living skills services  
32                   or other services in the place of the consumer's residence meets and  
33                   maintains compliance with state home and community based waiver  
34                   (HCBS) certification requirements for such programs. The license includes  
35                   services provided under the Class D license.

36                   Class D – an agency that provides personal care services in the place of  
37                   residence of the consumer. Services provided do not require an order or  
38                   supervision from a health professional.

39           (1)    A primary license may be further designated with the sub-  
40                 classification below:

41                   Subclass 1 – PACE and other inclusive care programs that are not  
42                   licensed as another entity, but only a portion of the total services  
43                   provided are related to home care. This subclass shall meet the  
44                   requirements for the primary license class unless alternate  
45                   requirements are addressed under [PACE section].

46                   Subclass 2 – licensed residential facilities providing services  
47                   outside the provisions of their primary license in the home of the  
48                   consumer. This subclass must meet the primary class license  
49                   unless alternate requirements are addressed under [residential  
50                   facility section].

51           (B)    When an HCA adds a category of service, the agency shall notify the  
52                 Department. The Department shall then request from the agency the  
53                 appropriate information needed to determine if the agency meets the  
54                 regulatory requirements for the category of service being requested. Once  
55                 this determination is made, the Department shall make the appropriate  
56                 changes to the license.

1 (C) If an HCA discontinues a category of service, the agency shall notify the  
2 Department. Notification shall include information on how the agency will  
3 ensure appropriate transfer of the affected home care consumers.

4 (D) Each agency that is licensed Class A, B or C shall met the general  
5 requirements section of these regulations. According to services provided,  
6 each agency shall also be required to meet the specific requirements for  
7 skilled care and/or personal care.

8 5.2 Licensure Procedure

9 (A) The HCA shall comply with the requirements of in 6 CCR 1011-1, Chapter II,  
10 Sections 2.3 and 2.4 at the time of the agency's request for initial or renewal  
11 licensure, and at the time of any change in ownership or management.

12 (B) When submitting an application for an initial or renewal license, the HCA shall  
13 also include evidence of either liability insurance coverage or a surety bond in  
14 lieu of liability insurance coverage **in the amount specified for the**  
15 **classification of services provided.**

16 (C) Each HCA owner, applicant or licensee shall submit a complete set of his or her  
17 fingerprints to the department. The department shall forward such fingerprints to  
18 the Colorado Bureau of Investigation for the purpose of conducting a state and  
19 national fingerprint-based criminal history record check utilizing the records of the  
20 Colorado Bureau of Investigation and the Federal Bureau of Investigation. The  
21 owner, applicant or licensee shall pay the costs associated with the fingerprint-  
22 based criminal history record check to the Colorado Bureau of Investigation.

23 (D) No license shall be issued or renewed by the department if the owner, applicant,  
24 or licensee of the home care agency has been convicted of a felony or of a  
25 misdemeanor, which felony or misdemeanor involves moral turpitude or involves  
26 conduct that the department determines could pose a risk to the health, safety, or  
27 welfare of the HCA's consumers.

28 (E) Except as otherwise specified below, the department shall issue or renew a  
29 license when it is satisfied that the applicant or licensee is in compliance with  
30 these rules. A license issued or renewed pursuant to this section 5.2 shall expire  
31 one year after the date of issuance or renewal.

32 (F) If the department denies an application for an HCA license, the department shall  
33 notify the applicant in writing of such denial by mailing a notice to the applicant at  
34 the address shown on the application. The notice shall also inform the agency of  
35 its right to appeal the denial and the procedure for appealing the denial.

36 (G) Appeals of departmental denials shall be conducted in accordance with the State  
37 Administrative Procedure Act, Section 24-4-101, *et.seq.*, C.R.S.

38 5.3 Provisional licenses

39 (A) The department may issue a provisional license to any applicant for the purpose  
40 of operating a home care agency for a period of ninety days if the applicant is  
41 temporarily unable to conform to all of the minimum standards required by this  
42 Chapter, except that no license shall be issued to an applicant if the operation of  
43 the applicant's home care agency will adversely affect the health, safety, or  
44 welfare of the home care consumers of such home care agency.

45 (B) If requested by the Colorado Department of Health and Care Policy and  
46 Financing, the department may issue a provisional license for a period of ninety  
47 days to an agency that has applied to be a certified home care agency as defined  
48 herein.

49 (C) As a condition of obtaining a provisional license, the applicant shall show proof to  
50 the department that attempts are being made to conform and comply with  
51 applicable standards.

52 (D) No provisional license shall be granted before completion of a criminal  
53 background check and finding in accordance with section 5.2 of this Chapter.

54 (E) A second provisional license may be issued, for a like term and fee, to effect  
55 compliance. No further provisional licenses may be issued for the current year  
56 after the second issuance.

57 License Fees

1 [To be determined with guidance from statute and advisory group]

2 Unless otherwise specified in this chapter, all licensing fees paid to the Department shall  
3 be deemed non-refundable.

5.54 Inspections

5 (A) An onsite inspection shall determine if standards for licensure are being  
6 met before the initial license is issued, except for agencies that were state  
7 or federally certified before June 1, 2009.

8 (B) If an agency wishes to add an additional service category to an already  
9 existing license, the Department may determine if specific standards are  
10 met by correspondence or by an onsite visit before approval.

11 (C) Agencies applying for licensure shall receive an initial inspection.  
12 Subsequent inspections shall be conducted on risk based inspection cycle.  
13 Inspection cycles for state and federally certified agencies before June 1,  
14 2009 shall be prioritized by the agency's most recent survey for  
15 certification and information submitted in regard to changes in the  
16 agency's ownership, management and services since the most recent  
17 survey.

18 (1) Four to eight month inspection cycles include one of more of the  
19 following:

20 (a) Agencies with deficiencies cited during the most recent  
21 survey of one or more consumer care incidents that caused  
22 or had high potential to cause serious consumer harm,

23 (b) Agencies found to have more than 20 deficiencies on the  
24 last inspection or survey,

25 (c) Agencies in the first year of operation.

26 (2) Nine to 15 month inspection cycles include one or more of the  
27 following:

28 (a) Agencies licensed or certified less than three years,

29 (b) Agencies with a substantiated complaint regarding  
30 consumer care, staff supervision or qualifications since the  
31 last inspection or survey; or

32 (c) Receipt by the Department of more than three separate  
33 complaints during the most recent six-month period or four  
34 complaints during the most recent 12-month period if the  
35 complaints were in regard to consumer care<sup>1</sup>,

36 (d) Agencies found to have deficiencies relating to potential or  
37 actual consumer harm during the last inspection,

38 (e) Agencies found to have more than ten deficiencies on the  
39 last inspection or survey,

40 (f) Agencies that have had a change of ownership or a  
41 significant change in management staff or addition of  
42 services not previously declared.

43 (3) Eighteen to 24 month inspection cycles include:

44 (a) Agencies found to have more than five deficiencies on the  
45 last inspection or survey but were not placed on the nine  
46 to 15 month inspection cycle,

47 (b) Receipt by the department of two complaints during the  
48 most recent six-month period or three complaints during the  
49 most recent 12-month period,

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<sup>1</sup> Multiple complaints regarding the same issue within a 30-day period or by the same complainant will be considered one complaint for the purposes of this section.

- 1 (c) Agencies found to have deficiencies relating to supervision,  
2 management, or staff qualifications during the last  
3 inspection, but did not result in substantial risk to  
4 consumers.
  
- 5 (4) Thirty to 36 month inspection cycles include:
  - 6 (a) Agencies with no deficient practice affecting consumer  
7 care, supervision or staff qualifications,
  - 8 (b) No substantiated complaints regarding consumer care,  
9 supervision or staff qualifications since the last inspection,
  - 10 (c) Receipt by the department of less than three complaints  
11 during the most recent twelve-month period,
  - 12 (d) No change in ownership or substantial management  
13 changes;
  - 14 (e) Agencies found to have no more than five deficiencies on  
15 the last inspection or survey and were not placed on the 18-  
16 24 month inspection cycle.

17 5.6 Plan of Correction

- 18 (A) An HCA shall submit to the department a written plan of correction detailing  
19 measures that will be taken by the agency to correct deficiencies found as a  
20 result of inspections.
  - 21 (1) A plan of correction shall include, but not be limited to, the following:
    - 22 (a) Identification of the **root cause of the deficient practice**  
23 **cited**; ~~problem(s) with the current activity and what the agency~~  
24 ~~will do to correct each deficiency.~~
    - 25 (b) **The plan to correct the deficiency cited;**
    - 26 (c) A description of how the agency will accomplish the corrective  
27 action(s).
    - 28 (d) A description of how the agency will monitor the corrective action  
29 to ensure the deficient practice is remedied and will not recur,
    - 30 (e) **Identification, by title, of who is responsible for**  
31 **implementation of the corrective action; and**
    - 32 (f) A timeline with the expected implementation and completion  
33 date. Completion date is the date that the agency deems it can  
34 achieve compliance.
  - 35 (B) **Corrective actions shall be implemented within 30 days of the exit date or**  
36 **as determined by the Department.**
  - 37 (C) A completed plan of correction shall be:
    - 38 (1) Submitted to the department in the form and manner required by the  
39 Department.
    - 40 (2) Submitted within ten calendar days after the date of the department's  
41 written notice of deficiencies, and
    - 42 (3) Signed by the agency administrator.
  - 43 (D) The department has the discretion to approve, modify or reject plans of  
44 correction.
    - 45 (1) If the plan of correction is acceptable, the department shall notify the  
46 agency.
    - 47 (2) If the plan of correction is unacceptable, the department shall notify the  
48 agency in writing and the agency shall re-submit changes to the  
49 department within the time frame specified by the department.

1 (3) If the agency fails to comply with the requirements or deadlines for  
2 submission of a plan or fails to submit requested changes to the plan, the  
3 department may reject the plan of correction and impose intermediate  
4 restrictions or other disciplinary sanctions as set forth below.

5 (4) If the agency fails to timely implement the actions agreed to in the plan of  
6 correction, the department may impose intermediate restrictions or other  
7 disciplinary sanctions as set forth below.

8 5.7 Intermediate restrictions or conditions

9 (A) The department may impose intermediate restrictions or conditions on a license  
10 that may include at least one of the following:

11 (1) Retaining a consultant to address corrective measures;

12 (2) Monitoring by the department for a specific period;

13 (3) Providing additional training to employees, owners, or operators of the  
14 home care agency;

15 (4) Complying with a directed written plan to correct the violation, or

16 (5) Paying a civil fine not to exceed ten thousand dollars per calendar year  
17 for all violations.

18 (B) If the department imposes an intermediate restriction or condition that is not the  
19 result of a serious and immediate threat to health or welfare, the department shall  
20 provide the agency with written notice of the restriction or condition. No later  
21 than ten days after receipt of the notice, the agency shall submit a written plan  
22 that includes the time frame for completing the directed plan that addresses the  
23 restriction or condition specified.

24 (C) If the department imposes an intermediate restriction or condition that is the  
25 result of a serious and immediate threat to health, safety or welfare, the  
26 department shall notify the agency in writing, by telephone, or in person during  
27 an on-site visit.

28 (1) The agency shall remedy the circumstances creating the harm or  
29 potential harm immediately upon receiving notice of the restriction of  
30 condition.

31 (2) If the department provides notice of a restriction or condition by  
32 telephone or in person, the department shall send written confirmation of  
33 the restriction or condition to the agency within two business days.

34 (D) After submission of an approved written plan, the agency may appeal any  
35 intermediate restriction or condition to the department through an informal review  
36 process as specified by the department.

37 (E) If the department imposes an intermediate restriction or condition that requires  
38 payment of a civil fine, the agency may request and the department shall grant a  
39 stay in payment of the fine until final disposition of the restriction or condition.

40 (F) If an agency is not satisfied with the result of the informal review or chooses not  
41 to seek informal review, no intermediate restriction or condition shall be imposed  
42 until after the opportunity for a hearing has been afforded pursuant to the State  
43 Administrative Procedure Act, Section 24-4-101, *et seq.*, C.R.S.

44 5.8 Revocation or suspension

45 (A) The department shall revoke or refuse to renew the license of a home care  
46 agency where the owner or licensee has been convicted of a felony or  
47 misdemeanor involving moral turpitude or conduct that the department  
48 determines could pose a risk to the health, safety, or welfare of the consumer of  
49 such agency.

50 (B) Appeals of departmental revocations or suspensions shall be conducted in  
51 accordance with the State Administrative procedure Act, Section 24-4-101, *et*  
52 *seq.*, C.R.S.

53 5.9 Summary suspension

- 1 (A) The department may summarily suspend an agency’s license if it finds, after  
2 investigation, that an agency has engaged in a deliberate and willful violation of  
3 these regulations or that the public health, safety, or welfare requires immediate  
4 action.
- 5 (B) If the department summarily suspends an agency’s license, it shall provide the  
6 agency with a notice explaining the basis for the summary suspension. The  
7 notice shall also inform the agency of its right to appeal and that it is entitled to a  
8 prompt hearing on the matter.
- 9 (C) Appeals of summary suspensions shall be conducted in accordance with the  
10 State Administrative procedure Act, Section 24-4-101, *et seq.*, C.R.S.
- 11 5.10 Civil fines
- 12 (A) If the department assesses a civil fine pursuant to this section, the money  
13 received by the department shall be transmitted to the state treasurer, who shall  
14 credit the same to the home care agency cash fund created in section 25-27.5-  
15 105, C.R.S.
- 16 (B) Civil fines collected pursuant to this section shall be used for expenses related to:
- 17 (1) Continuing monitoring required by this section;
- 18 (2) Education for agencies to avoid restrictions or conditions or facilitate the  
19 processes for application or change of ownership;
- 20 (3) Education for consumers and their families about resolving problems  
21 with an agency, rights of consumers and responsibilities of agencies;
- 22 (4) Providing technical assistance to any home care agency for the purpose  
23 of complying with changes in rules or state or federal law;
- 24 (5) Monitoring and assisting in the transition of consumers to other agencies,  
25 when the transition is the result of the revocation of a license, or other  
26 appropriate medical services; or
- 27 (6) Maintaining the operation of an agency pending correction of violations,  
28 as determined necessary by the department.

29 **Section 6 – General Requirements For All License Categories**

30 6.1 Out of State Entities

31 Every HCA providing **skilled home health and/or personal care services** within the  
32 State, shall have a physical business office capable of conducting day to day business **as**  
33 **a home care agency** within Colorado and shall be licensed according to the services  
34 rendered.

35 6.2 Branch Offices and Work Stations

- 36 (A) The agency shall notify the Department in advance of the plan to establish a  
37 branch office. Notification shall include:
- 38 (1) A description of the services to be provided (which shall be the same as  
39 the parent agency),
- 40 (2) The geographic area to be served by the branch office, and
- 41 (3) A description of exactly how supervision by the parent agency will occur.
- 42 (B) All branch offices shall be subject to approval by Department. Once the agency  
43 receives approval to establish the requested branch office, the agency shall  
44 notify the Department of the branch office address, telephone number, and the  
45 name and qualifications of the branch supervisor.
- 46 (C) Onsite supervision of the branch office shall be conducted by the parent agency  
47 administrator, manager or supervisor at least every month in accordance with  
48 agency policy. The supervisory visits shall be documented and include the date  
49 of the visit, the content of the consultation, the individuals in attendance, and the  
50 recommendations of and to the staff. In addition, branch supervision shall  
51 include consumer record review, branch inclusion in the agency’s quality  
52 assurance activities, meetings with the branch supervisor, and home visits.

- 1 (D) A full-time health professional who possesses the experience, education and  
2 qualifications to oversee all care and services provided by the branch shall be  
3 assigned to the branch office and shall be available during all operating hours.  
4 This person shall be an employee of the agency.
- 5 (1) If only personal care services are provided, an employee that meets the  
6 qualifications of supervisor shall be assigned to the branch and shall be  
7 available during all operating hours.
- 8 (E) All admissions shall be coordinated through the parent agency and a current  
9 roster of consumers shall be maintained by the parent agency at all times.
- 10 (F) The lines of authority and professional and administrative control are clearly  
11 delineated in both organizational structure and in practice and can be traced to  
12 the parent agency.
- 13 (G) The location of the branch, in relation to the parent, is such that the parent is able  
14 to assure adequate supervision ~~during all operating hours~~ **at all times**.
- 15 (H) The parent office maintains current personnel records on all staff. A **copy of all**  
16 **agency** ~~statement of personnel~~ policies is maintained in each branch for staff  
17 usage. Contracted arrangements with various entities are the responsibility of the  
18 parent agency, even when the contracted services are used exclusively by the  
19 branch. The branch office should retain the clinical records for its consumers,  
20 since the branch site is where the staff providing the services are located.
- 21 6.3 Background Checks
- 22 Employee
- 23 6.4 Consumer Rights
- 24 (A) Assurance of rights
- 25 (1) The HCA shall establish and implement written policies and procedures  
26 regarding the rights of consumers and the implementation of these  
27 rights. A complete statement of these rights, including the right to file a  
28 complaint with the department, shall be distributed to all staff and  
29 contracted personnel upon hire and annually thereafter.
- 30 (2) At a minimum, the HCA's policies and procedures shall specify that:
- 31 (a) The consumer or the consumer's authorized representative has  
32 the right to be informed of the consumer's rights through an  
33 effective means of communication.
- 34 (b) The consumer has the right to be assured that the HCA shall not  
35 condition the provision of care or otherwise discriminate against  
36 a consumer based on personal, cultural or ethnic preference; or  
37 whether the consumer has an advance directive.
- 38 (c) The HCA shall protect and promote the exercise of these rights.
- 39 (B) Notice of rights
- 40 (1) The HCA shall provide the consumer with a written notice of the  
41 consumer's rights in a manner that the consumer understands before the  
42 initiation of care or services to that consumer. The notice shall include  
43 what to do if rights are violated. The notice shall be prescribed by the  
44 Department and accessible at the Department's website.
- 45 (a) If a consumer cannot read the statement of rights, it shall be  
46 read to the consumer in a language the consumer understands.  
47 If the consumer is a minor or needs assistance in understanding  
48 these rights, the HCA shall inform the consumer and the parent,  
49 legal guardian or other responsible person.
- 50 (C) Exercise of rights and respect for property and person
- 51 (1) The rights of the consumer may be exercised by the consumer or by his  
52 or her authorized representative.
- 53 (2) The consumer has the right to have his or her person and property  
54 treated with respect. The consumer has the right to be free from neglect,

- 1 financial exploitation, verbal, physical and psychological abuse including  
2 humiliation, intimidation or punishment.
- 3 (3) The consumer has the right to be treated with courtesy, consideration,  
4 respect, and recognition of his or her dignity, individuality and right to  
5 personal privacy.
- 6 (4) The consumer has the right to confidentiality concerning consumer  
7 services and disclosures regarding personal and health information or  
8 home status to others who do not have a need to know such information.
- 9 (5) The consumer has the right to be informed of the full name, licensure  
10 status, staff position and employer of all persons with whom the  
11 consumer has contact and is supplying, staffing or supervising care or  
12 services. The consumer has the right to be served by agency staff who  
13 are properly trained and competent to perform their duties.
- 14 (6) The consumer has the right to live free from involuntary confinement,  
15 and to be free from physical or chemical restraints as defined in 6 CCR  
16 1011-1, Chapter II, Part 8.
- 17 (7) The consumer has the right to express complaints verbally or in writing  
18 about services or care that is or is not furnished, or about the lack of  
19 respect for the consumer's person or property by anyone who is  
20 furnishing services on behalf of the HCA. The consumer has the right to  
21 know how to contact an individual employed with the HCA who is  
22 responsible for the complaint intake and problem resolution process.
- 23 (8) The consumer has the right to be involved in and seek resolution to  
24 ethical issues in the consumer's care or services within the framework  
25 established by the HCA.
- 26 **(9) The consumer has the right to choose a home care agency without**  
27 **fear of retribution from other agencies or their staff.**
- 28 (D) Right to be informed and to participate in planning care and services
- 29 (1) The HCA shall inform the consumer in advance about the care and  
30 services to be furnished, and of any changes in the care and services to  
31 be furnished to enable the consumer to give informed consent.
- 32 (a) The consumer has the right to refuse treatment within the  
33 confines of the law, to be informed of the consequences of such  
34 action and to be involved in experimental research only upon the  
35 consumer's voluntary written consent.
- 36 (b) The consumer has the right to be told in advance of receiving  
37 care about the services that will be provided, the disciplines that  
38 will furnish care, the frequency of visits proposed to be furnished,  
39 and the consequences of refusing care or services.
- 40 (c) The consumer has the right to know, in advance, any limits to the  
41 services available from an agency and the agency's grounds for  
42 termination of services.
- 43 (2) The HCA shall offer the consumer the right to participate in developing  
44 the plan of care and receive instruction and education regarding the plan.
- 45 (a) Before commencing services, the HCA shall inform and  
46 distribute written information to the consumer concerning the  
47 agency's policies on advance directives, including a description  
48 of applicable state law. The HCA may furnish advance directives  
49 information to a consumer at the time of the first home visit, as  
50 long as the information is furnished before care is provided.
- 51 (b) The HCA shall advise the consumer in advance of the right to  
52 participate in planning the care or treatment, and in planning  
53 changes in the care or treatment.
- 54 (c) Each consumer shall have the right to reasonable adherence to  
55 planned or scheduled visits to maintain continuity of care.
- 56 (d) Each consumer shall have a right to be admitted for service only  
57 if the agency has the ability to provide safe, quality care at the

- 1 level of frequency and intensity needed and/or as ordered by a  
2 physician.
- 3 (e) Each consumer has the right to be promptly referred to another  
4 provider organization if the HCA is unable to meet the  
5 consumer's needs or if the consumer is not satisfied with the  
6 care he/she is receiving.
- 7 (f) Each consumer discharged for any reason shall have the right to  
8 receive assistance from the HCA to find an appropriate  
9 placement with another agency if the consumer continues to  
10 require care and/or services upon discharge. The HCA shall  
11 document due diligence in ensuring continuity of care upon  
12 discharge as necessary to protect the consumer's safety and  
13 welfare.
- 14 (g) The consumer has a right to receive coordinated care among all  
15 HCA providers delivering services in the home.
- 16 (E) The consumer shall have the right to confidentiality of all records,  
17 communications, and personal information. The HCA shall advise the consumer  
18 of the agency's policies and procedures regarding disclosure of clinical  
19 information and records.
- 20 (F) The consumer has the right to be advised, before care is initiated, of the extent to  
21 which payment for the HCA services may be expected from insurance or other  
22 sources, and the extent to which payment may be required from the consumer.  
23 Before the care is initiated, the HCA shall inform the consumer, orally and in  
24 writing, of the following:
- 25 (1) The extent to which payment for supplies, equipment and services may  
26 be expected from all funding sources including private insurance,  
27 Medicare, Medicaid, or any other government or grant funded or aided  
28 program known to the HCA,
- 29 (2) The charges for services that will not be covered by insurance, grants or  
30 donated funds, and
- 31 (3) The charges that the consumer or authorized representative may have to  
32 pay.
- 33 (G) The consumer has the right to be advised of any changes in billing or payment  
34 procedures before implementation.
- 35 (1) If an agency is implementing a scheduled rate increase to all clients, the  
36 agency shall provide a written notice to each affected consumer or  
37 authorized representative 30 days before implementation.
- 38 (2) The HCA shall advise the consumer or authorized representative of any  
39 individual changes orally and in writing as soon as possible, but no later  
40 than **five business days** from the date that the HCA becomes aware of  
41 a change.
- 42 (3) An HCA shall not assume power of attorney or guardianship over a  
43 consumer utilizing the services of the HCA, require a consumer to  
44 endorse checks over to the HCA or require a consumer to **execute or**  
45 **assign a loan, advance, financial interest,** mortgage or other property  
46 in exchange for future services.
- 47 (H) The consumer has the right to be advised of the availability of the state's toll-free  
48 HCA hotline. When the agency accepts the consumer for treatment or care, the  
49 HCA shall advise the consumer in writing of the telephone number of the home  
50 health hotline established by the state, the hours of its operation, and that the  
51 purpose of the hotline is to receive complaints or questions about local HCAs.  
52 The consumer also has the right to use this hotline to lodge complaints regarding  
53 care received or not received including the implementation of the advance  
54 directives requirements.
- 55 (I) The HCA shall make available to the consumer upon request a written notice ~~in~~  
56 ~~advance of furnishing care to the consumer or during the initial evaluation visit~~  
57 ~~before the initiation of treatment,~~ a listing of all individuals or other legal entities  
58 who have ownership or controlling interest in the agency.

1 (J) The HCA shall maintain documentation showing that it has complied with the  
2 requirements of this section.

3

4 6.5 Disclosure Notice

5 (A) **A notice as prescribed by the Department shall be provided to each**  
6 **consumer before services are rendered showing the licensure or**  
7 **registration type and services provided by the agency.** The notice shall  
8 inform the consumer as to the responsible party for the following:

- 9 (1) Employer of the home care worker,  
10 (2) Liability for the home care worker **while in the consumer's home,**  
11 (3) Payment of wages to the home care worker,  
12 (4) Payment of employment and social security taxes,  
13 (5) Payment of unemployment, worker's compensation and general liability  
14 insurance,  
15 (6) Supervision of the home care worker,  
16 (7) **Scheduling of the home care worker,**  
17 (8) Assignment of duties to the home care worker,  
18 (9) Hiring, firing and discipline of the home care worker,  
19 (10) Provision of equipment or materials for the home care worker's use in  
20 providing services to the consumer, and  
21 (11) **Training and ensuring qualifications that meet the needs of the**  
22 **consumer.**

23 (B) **The disclosure notice shall be signed by the consumer or representative**  
24 **before the start of services.**

25 6.6 Non-compete agreements

26 (A) **A HCA shall not coerce, threaten, or use any means of intimidation to**  
27 **prevent an employee from terminating the employment relationship and**  
28 **commencing employment at another HCA.**

29 (B) **Non-compete clauses, agreements or contracts shall only be enforceable**  
30 **in accordance with section 8-2-113, C.R.S.**

31 6.7 Complaint Processing

32 (A) The HCA shall develop and implement policies to include the following items:

- 33 (1) Investigation of complaints made by a consumer or others about services  
34 or care that is or is not furnished, or about the lack of respect for the  
35 consumer's person or property by anyone furnishing services on behalf  
36 of the HCA.  
37 (2) Documentation of the existence, the investigation, and the resolution of  
38 the complaint. The agency shall notify the complainant of the results of  
39 the investigation and the agency's plan to resolve the issue.  
40 (3) Notification to the consumer of his or her right to appeal a corrective  
41 action plan that is not agreeable to the consumer within the framework of  
42 the HCA.  
43 (4) Incorporation of the findings of its investigation into its quality assurance  
44 program in order to evaluate and implement systemic changes where  
45 needed.  
46 (5) Explicit statement that the HCA does not discriminate or retaliate against  
47 a consumer for expressing a complaint or multiple complaints.

1 (6) Maintenance of a separate record/log/file detailing all activity regarding  
2 complaints received, and their investigation, and resolution thereof. The  
3 ~~active~~ record shall be maintained for at least a two-year period of time  
4 and shall be available for audit and inspection purposes.

5 6.8 Agency Reporting Requirements

6 (A) Each HCA shall comply with the occurrence reporting requirements set forth in 6  
7 CCR 1011, Chapter II, Section 3.2.

8 (B) The agency shall investigate each reportable occurrence and institute  
9 appropriate measures to prevent similar future occurrences.

10 (1) Documentation regarding the investigation, including the appropriate  
11 measures to be instituted, shall be made available to the Department,  
12 upon request.

13 (2) A report with the investigation findings shall be available for review by  
14 the Department within five working days of the occurrence.

15 (C) Nothing in this section 6.8 shall be construed to limit or modify any statutory or  
16 common law right, privilege, confidentiality or immunity.

17 (D) An HCA shall notify the Department ten business days before the discharge of  
18 one or more consumers who require continued paid care or services to protect  
19 their health, safety or welfare, or the discontinuation of a line of service or payer  
20 source.

21 (1) Emergency discharges necessary to protect the safety and welfare of  
22 staff shall be reported to the Department within 48 hours of the  
23 occurrence.

24 6.9 Personnel records and policies

25 (A) Each agency shall ensure and maintain documentation in the employee file that  
26 all persons employed providing services as an HCA worker to render such care,  
27 comply with and document the following conditions:

28 (1) Does not have a disqualifying background check

29 (2) Has a copy of the Social Security card; and

30 (3) Has visa or proof of citizenship in compliance with federal requirements  
31 for employment.

32 (B) Before employing any individual in a position that requires a state professional  
33 license, the agency shall contact the Department of Regulatory Agencies to verify  
34 that the individual's license is active and **has not been found to have**  
35 **committed an act that required restriction or revocation of the license.** A  
36 copy of the verification of the individual's license shall be placed in the  
37 individual's personnel file.

38 (1) If an agency that provides only non-skilled care hires an individual with a  
39 professional healthcare license, that person may not provide skilled care  
40 under this license but may be utilized for non-medical care, supervision  
41 or management positions.

42 (C) The agency shall check the status of employee prospects that have direct  
43 consumer care responsibilities with the **Colorado Nurse Aide Registry** before  
44 hiring to ensure that the individual has not been found to have committed an act  
45 that would require notation on or disqualification from the registry.

46 (D) Personnel records for all employees shall include the name and address of the  
47 employee, social security number, date of birth, name and address of next of kin,  
48 evidence of qualifications (including any current licensure, registration, or  
49 certification that is required by state or federal law for the functions performed),  
50 dates of employment and separation from the agency and the reason for  
51 separation.

52 (E) Personnel policies shall be available to all full and part-time employees, and shall  
53 include but not be limited to the following:

54 - Wage scales, fringe benefits, hours of work and leave time.

- 1 - Acknowledgement and confirmation of receipt of notification regarding
- 2 responsible parties for various employment related duties including but not
- 3 limited to: supervision, payment of income and employment taxes and workman's
- 4 compensation insurance.
  
- 5 - Orientation to the agency and appropriate continuing education.
  
- 6 - Job descriptions for all positions utilized by the agency.
  
- 7 - Annual performance evaluation for all employees.
  
- 8 - Compliance with all applicable requirements of the Civil Rights Act of 1964.
  
- 9 - Provision for confidentiality of personnel records.
  
- 10 - Employee health policies that require employees to report health symptoms and
- 11 exposure to any communicable or infectious disease and that specify conditions
- 12 under which employees are to be removed from consumer contact and
- 13 conditions under which employees may resume consumer contact.

14 6.10 Emergency Preparedness

- 15 (A) The home care agency (HCA) shall have a written emergency preparedness plan
- 16 that is designed to manage consumers' care and services in response to the
- 17 consequences of natural disasters or other emergencies that disrupt the
- 18 agency's ability to provide care and services or threatens the lives or safety of its
- 19 consumers.
  
- 20 (B) At a minimum, an agency's written emergency preparedness plan shall include
- 21 the following:
  - 22 (1) The provisions for the management of all staff, who are designated to be
  - 23 involved in emergency measures, including the assignment of
  - 24 responsibilities and functions. All staff shall be informed of their duties
  - 25 and be responsible for implementing the emergency preparedness plan.
  
  - 26 (2) Education for consumers, caregivers and families on how to handle care
  - 27 and treatment, safety, and/or well-being during and following instances of
  - 28 natural (tornado, flood, blizzard, fire, etc.) and other disasters, or other
  - 29 similar situations appropriate to the needs of the consumer.
  
  - 30 (3) Staff education on emergency preparedness so that staff safety is
  - 31 assured.
  
  - 32 (4) Collection of consumer information at the time of admission and updated
  - 33 at least annually, which shall include:
    - 34 (a) The consumer's demographic information, including name, age,
    - 35 full address (including county), and phone number;
  
    - 36 (b) Alternate emergency contact information;
  
    - 37 (c) A list of the consumer's necessary care or services, medication
    - 38 and equipment needs;
  
    - 39 (d) Back-up sources for life-sustaining medical and equipment
    - 40 needs, where applicable;
  
    - 41 (e) Consent or declination to have personal and medical information
    - 42 transferred to local, state and federal agencies for purposes of
    - 43 rendering emergency services in case of an emergency or
    - 44 disaster;
  
    - 45 (f) Consent or declination for emergency services to enter the
    - 46 consumer's home if an emergency or disaster occurred.
  
  - 47 (5) Classification and prioritization of each consumer's potential care needs
  - 48 according to the following standardized prioritization system.
    - 49 Category 1: Consumers who require medical or skilled personal care;
    - 50 special medical equipment and/or continual medical surveillance and
    - 51 whose condition is of such a nature that healthcare services shall be
    - 52 continued to preserve the health, safety and welfare of the consumer.

1 Category 2: Consumers who require **medical or skilled personal care**;  
2 special medical equipment and/or medical surveillance but have the  
3 ability to provide self-care for a period of 72 hours following an  
4 emergency if support systems were lost or compromised. The consumer  
5 condition would be expected to deteriorate during an emergency period if  
6 not provided **medical or personal care services**.

7 Category 3: Consumers who have the capacity to provide self-care for  
8 greater than 72 hours following an emergency situation and whose  
9 condition is unlikely to deteriorate within a 72 hour period of emergency  
10 or evacuation.

11 (6) Maintenance of an appropriate system to aggregate consumer data into  
12 a format approved by the local, county and state Offices of Emergency  
13 Management and the Department. The purpose is be prepared to  
14 provide accurate information to emergency responders/response  
15 systems if a disaster were to occur that had the potential to or did effect  
16 areas in which consumers of the HCA lived.

17 (C) The agency shall review its emergency preparedness plan **retrospectively after**  
18 **implementation of incident response** and on an annual basis and incorporate  
19 into policy any substantive changes. The written evaluation and plan revisions  
20 shall be reviewed by the HCA's governing body at least annually.

21 6.11 **Coordination with External Home Care Agencies**

22 (A) **Each HCA shall be responsible for the coordination of consumer services**  
23 **with external HCAs providing care and services to the same consumer.**  
24 **The HCA shall ask the consumer if they are receiving services from other**  
25 **home care agencies and document the response.**

26 (1) **Where concurrent services are identified, the HCA shall document**  
27 **communication with the other HCA(s). Documentation shall include**  
28 **coordination of care and services according to agency policy and**  
29 **consumer care needs.**

30 (2) **Each HCA shall communicate with each identified external HCA**  
31 **when a significant change in service or care plan occurs.**

32 (3) **No HCA shall refuse to share consumer care information, including**  
33 **care/service plans, planned visit information, and goals of care**  
34 **unless the consumer has chosen to refuse coordination with**  
35 **external HCAs.**

36 (4) **The consumer shall be informed of this requirement verbally and in**  
37 **writing. The consumer has the right to refuse such coordination**  
38 **and that shall be documented in the consumer's record.**

39 6.12 **Quality Management Program**

40 (A) Every HCA shall establish a quality management program appropriate to the size  
41 and type of agency that evaluates the quality of consumer services, care and  
42 safety, and that complies with the requirements set forth in 6 CCR 1011, Chapter  
43 II, Section 3.1.

44 6.13 **Infection Control**

45 (A) The HCA shall have written policies and procedures for investigating, controlling  
46 and preventing infections.

47 (1) Each agency shall adhere, at a minimum, to the following guidelines from  
48 the Centers for Disease Control and Prevention, U.S. Department of  
49 Health and Human Services:

50 (a) Guideline for Hand Hygiene in Health-Care Settings:  
51 Recommendations of the HealthCare Infection Control Practices  
52 Advisory Committee and the HICPAC/SHEA/APIC/IDSA Hand  
53 Hygiene Task Force, 2002.

54 (b) Guideline for Infection Control in Health Care Personnel, 1998.

55 (2) The HCA shall provide training for its employees regarding the agency's  
56 written infection control policies and procedures at the time of hire and  
57 annually.

1 (3) The HCA shall evaluate the adequacy of its infection control policies and  
2 procedures at least annually, make any necessary substantive changes  
3 and document in writing.

4 (a) The HCA governing body shall review the written evaluation and  
5 any revisions at least annually.

6 6.14 Employee Health – Communicable Disease Prevention

7 (A) It shall be the responsibility of the HCA to establish written policies  
8 concerning pre-employment physicals and employee health. Those policies  
9 shall include, but not be limited, to the following items:

10 (1) Each employee shall have up-to-date health information available in  
11 the agency;

12 (2) Development and implementation of a procedure for tuberculin  
13 testing that is consistent with the Centers for Disease Control  
14 “Guidelines for Preventing the Transmission of *Mycobacterium*  
15 *tuberculosis* in Health-Care Settings, 2005.”

16 (3) Description of health evaluation in accordance with services  
17 provided and risk to consumers.

18 (4) A Hepatitis B vaccination program that complies with the  
19 requirements of 29 Code of Federal Regulations § 1910.1030 (2006)  
20 when there is a potential for exposure to body fluids.

21 (5) Work restrictions to be placed on direct care staff who are known to  
22 be affected with any illness in a communicable stage or to be a  
23 carrier of a communicable illness or disease, afflicted with boils,  
24 jaundice, infected wounds, vomiting, diarrhea or acute respiratory  
25 infections. Such individuals shall not work in any capacity in which  
26 there is the likelihood of transmitting disease to consumers, agency  
27 personnel or other individuals within the home, or a potential of  
28 contaminating food, food contact surfaces, supplies or any surface  
29 with pathogenic organisms.

30 6.15 Missed visits

31 (A) There shall be a mechanism for informing the consumer about scheduled visits in  
32 accordance with agency policy. Documentation shall be maintained and include  
33 how and when the consumer was notified, name and discipline of employee  
34 scheduled to visit, date and approximate time of arrival. Following the initial  
35 visit, the consumer shall be provided with a minimum of 48 hours notice of  
36 scheduled visits unless visits are mutually agreed upon sooner; alterations in the  
37 schedule shall be provided to the consumer as soon as practical.

38 (1) An employee shall not arrive at a consumer’s home without prior notice.

39 (2) An employee shall present to the home with readily identifiable agency  
40 identification.

41 (B) Any visit not completed according to the care/service plan, or established  
42 schedule shall be documented in the consumer’s service or clinical record or  
43 other easily retrievable method.

44 (1) If the consumer cancelled the visit, the employee taking the information  
45 shall document date and time of call, who the employee spoke to, reason  
46 for cancellation, and how any required care would be delivered. The  
47 document shall be completed on the day of receipt of the information  
48 from the consumer or representative.

49 (2) If the agency staff cancelled the visit, documentation shall include the  
50 reason for cancellation, date and time of the scheduled visit, date and  
51 time the consumer or legal representative was notified, evidence  
52 supervisory notification and the actions taken to fill the visit and how  
53 needs of the consumer was met. The document shall be completed  
54 either before or on the date of cancellation.

55 (3) If the consumer does not respond to let staff in the home for the  
56 scheduled visit, the staff shall attempt contact by phone, if still no  
57 response, the agency shall contact the emergency contact number or  
58 known friend or relative to ensure the consumer is safe and his welfare

- 1                                   ensured. If no contacts are available, a law enforcement welfare check  
2                                   shall be requested. All attempts to ensure the safety of the consumer  
3                                   and the outcome of each attempt shall be documented.
- 4                                   (4)    The services shall be provided to meet the needs of the consumer.  
5                                   Services not delivered shall be provided as agreed upon by the  
6                                   consumer and the HCA, except if services were verified as provided by  
7                                   persons outside the agency.
- 8                                   (5)    If the HCA admits consumers with needs that require care or services to  
9                                   be delivered at specific times or parts of day, the HCA shall ensure  
10                                  qualified staff in sufficient quantity are employed by the agency or have  
11                                  other effective back-up plans to ensure the needs of the consumer is  
12                                  met.
- 13                                 (6)    The back-up plan for scheduled visits shall not include calling for an  
14                                 ambulance or other emergency services unless the presence of the  
15                                 scheduled staff in the home would still have warranted the summons of  
16                                 emergency services.
- 17                                 (7)    Agency policy shall specifically address processes and procedures for  
18                                 assignment and scheduling of staff including back-up mechanisms if  
19                                 assigned staff cannot make the scheduled visit. The policy shall address  
20                                 processes for HCA planning for coverage of employee illness, vacation,  
21                                 holidays and unexpected voluntary or involuntary termination of  
22                                 employment.

23    6.16    Contracts

- 24                                 (A)    If personnel under hourly or per visit contracts are used by the HCA, there shall  
25                                 be a written contract between those personnel and the agency that specifies the  
26                                 following:
- 27                                 (1)    Home care consumers are accepted for care only by the primary HCA.
- 28                                 (2)    The specific services to be furnished.
- 29                                 (3)    The necessity to conform to all applicable agency policies, including  
30                                 personnel qualifications.
- 31                                 (4)    The responsibility for participating in developing plans of care **or service**.
- 32                                 (5)    The manner in which services will be controlled, coordinated, and  
33                                 evaluated by the primary HCA.
- 34                                 (6)    The procedures for submitting clinical/~~encounter and progress~~ notes,  
35                                 scheduling of visits, periodic consumer evaluation.
- 36                                 (7)    The procedures for payment for services furnished under the contract.
- 37                                 (8)    **Annual HCA review of contract and renewal at least every 3 years.**
- 38                                 (9)    **The contract shall specifically state the name and physical address**  
39                                 **of the agency, name and address of the contractor.**

40    Section – Skilled Care

41    Governing Body

- 42                                 (A)    A governing body (or designated persons so functioning) shall assume full legal  
43                                 authority and responsibility for the operation of the agency. The governing body  
44                                 shall consist of at least three members who have business and healthcare  
45                                 experience sufficient to oversee the services provided by the home care agency.  
46                                 At least one member shall be a Colorado resident and one member shall be  
47                                 neither an owner, employee, nor contractor for consumer care services.
- 48                                 (B)    The governing body shall ~~meet~~ **have a process that reviews agency**  
49                                 **operations** at least quarterly and shall maintain documentation of such review.
- 50                                 (C)    The governing body shall appoint a qualified administrator; arrange for  
51                                 professional advice as required by the section below; periodically review written  
52                                 bylaws; review initial policies and procedures along with any amendments  
53                                 thereto; and oversee the management and fiscal affairs of the agency.

1 Professional Advisory Committee

2 (A) Each HCA shall have a group of professional personnel that includes at least one  
3 physician and one registered nurse, and **a representative from each**  
4 **professional discipline the HCA includes in its policy, and/or information**  
5 **provided to consumers or the Department as services provided to**  
6 **consumers.**

7 (B) The group of professional personnel shall establish and annually review the  
8 agency's policies governing the all services offered, admission and discharge  
9 policies, medical supervision and plans of care, emergency care, clinical records,  
10 personnel qualifications, and program evaluation. At least one member of the  
11 group shall be neither an owner, an employee nor a contractor for the provision  
12 of consumer care services for the HCA.

13 (C) **The agency shall implement an on-going mechanism for consumer**  
14 **involvement to provide input and comment regarding services provided by**  
15 **the agency in accordance with agency policy. The policy shall include a**  
16 **provision that the consumer has the right to submit comments**  
17 **anonymously and without fear of reprisal. The agency shall inform the**  
18 **consumer of the mechanism to provide input and comments to the agency,**  
19 **and how this mechanism differs from filing a complaint with the agency,**  
20 **including the expectations for follow-up and agency response to consumer**  
21 **input. Consumer input and commentary shall be provided to the group of**  
22 **professional personnel at least annually in the original form and format**  
23 **received by agency and in an aggregate form to identify negative trends or**  
24 **issues requiring consideration of the group.**

25 (C) The group of professional personnel shall meet annually and as frequently as  
26 necessary to advise the agency on professional issues, to participate in the  
27 evaluation of the agency's program, and to assist the agency in maintaining  
28 liaison with other health care providers in the community and in the agency's  
29 community information program.

30 (D) **The HCA shall have a policy and procedure to establish criteria for calling a**  
31 **meeting of the group of professional personnel more frequently than**  
32 **annually and such policy shall be based on, at minimum, increase in**  
33 **number of consumer complaints, severity of consumer complaints, trends**  
34 **or issues identified from consumer input, addition or deletion of service**  
35 **categories or disciplines, coordination issues, events related to consumer**  
36 **harm or potential for harm, issues identified in the quality assurance**  
37 **process requiring correction.** The policy shall be developed to ensure  
38 professional advice is requested and received at an appropriate frequency to  
39 protect and preserve the health, safety, and welfare of the consumers it serves.  
40 Each meeting shall be documented by dated minutes and signatures of  
41 attendees. Meeting minutes shall be forwarded to the governing body to review  
42 and make recommendations.

43 Agency Evaluation

44 (A) The HCA shall have written policies requiring an overall evaluation of the  
45 agency's total program at least once a year by the group of professional  
46 personnel (or a committee of this group), HCA staff, and consumers, or by  
47 professional people outside the agency working in conjunction with consumers.

48 (1) The evaluation shall consist of an overall policy and administrative  
49 review and a clinical record review.

50 (2) The evaluation shall assess the extent to which the agency's program is  
51 appropriate, adequate, effective, and efficient.

52 (3) Mechanisms shall be established in writing for the collection of pertinent  
53 data to assist in evaluation.

54 (4) Results of the evaluation shall be reported to and acted upon by those  
55 responsible for the operation of the agency and are maintained  
56 separately as administrative records.

57 (B) **In evaluating each aspect of its total program, the HCA shall have four main**  
58 **criteria:**

59 (1) **Appropriateness - Assurance that the area being evaluated**  
60 **addresses existing or potential problems.**



1 (5) If deficiencies are cited during a re-licensure or complaint investigation in  
2 the areas of administration, management, personnel, or provision of  
3 care, the Department may require the administrator to repeat the  
4 administrator training and competency exam.

5 (D) Neither the competency exam or training program can act as a substitute for the  
6 minimum education and experience requirements.

7 (E) The administrator shall be familiar with all applicable local, state, and federal  
8 laws and regulations concerning the operation of the provision of home care  
9 services.

10 Curriculum for Administrator Training

11 (A) The Department shall approve a program of certification if all of the following  
12 requirements are met:

13 (1) The program or program components are conducted by:

14 (a) An accredited college, university, or vocational school, or

15 (b) An organization, association, corporation, group, or agency with  
16 specific expertise in that area; and

17 (c) The curriculum consists of at least 24 hours of training.

18 (2) Instruction shall include, at minimum, the following topics:

19 - Home care overview

20 - Regulatory responsibilities and compliance including but not limited to:  
21 consumer rights, governing body and administrator responsibilities,  
22 professional advisory committee, quality management plans, occurrence  
23 reporting, and complaint investigation and resolution process.

24 - Personnel – qualifications, experience, competency and evaluations

25 - Financial management

26 - Ethics in healthcare

27 - Needs of the fragile, ill and physically and cognitively disabled in the  
28 community setting. Special training and staffing considerations.

29 - Dealing with difficult people/customer service

30 - Staffing methodologies and oversight of scheduling

31 - Staff training and supervision

32 - Limitations of personal care versus health care services

33 Administrator Responsibilities

34 The administrator shall have the following responsibilities:

35 1) Ensure that the agency is in compliance with all applicable federal, state  
36 and local laws,

37 2) Be familiar with the applicable rules of the Department and maintain  
38 them within the agency,

39 3) Familiarize all employees with the law and the rules of the Department  
40 and make copies available for their use,

41 4) Ensure the completion, maintenance and submission of such reports and  
42 records as required by the Department,

43 5) Maintain ongoing liaison with the governing body, staff members and the  
44 community,

45 6) Maintain a current organizational chart to show lines of authority down to  
46 the consumer level,

- 1 7) Provide for the management of the business affairs and the overall  
2 operation of the agency,
- 3 8) Maintain appropriate personnel records, financial and administrative  
4 records and all policies and procedures of the agency,
- 5 9) Employ qualified personnel in accordance with written job descriptions,
- 6 10) Provide orientation of new staff, regularly scheduled in-service education  
7 programs and opportunities for continuing education for the staff,
- 8 11) Designate in writing the qualified staff member to act in the absence of  
9 the administrator, and
- 10 12) Ensure the availability of the administrator or designee at all hours  
11 employees are providing services, at minimum any eight-hour period  
12 between 7 a.m. and 7 p.m. Monday through Friday.

13 Nursing or Healthcare Supervisor

- 14 (A) The skilled nursing services furnished shall be under the supervision and  
15 direction of a physician or registered **nurse (who has at least two years of**  
16 **nursing experience including one year in home care or a closely related**  
17 **services)**. Other healthcare services shall be under the supervision and  
18 direction of a physician, registered nurse, or other licensed healthcare  
19 professional **(who has at least two years healthcare experience in the field of**  
20 **supervision including one year experience in home care or a closely**  
21 **related service)**. This person, or similarly qualified alternate, shall be available  
22 at all times during operating hours and participate in all activities relevant to the  
23 professional services furnished, including the development of qualifications and  
24 the assignment of personnel.
- 25 (B) The HCA shall have written policies regarding nurse delegation. **The policy**  
26 **shall delineate what tasks or procedures may be delegated, the delegation**  
27 **process, documentation, and how the delegate shall be supervised in**  
28 **accordance with state regulation. If the HCA prohibits delegation, there**  
29 **shall be a policy that directs such prohibition.**

30 Personnel

- 31 (A) Records
- 32 (1) Personnel practices and consumer care shall be supported by  
33 appropriate, written personnel policies. Personnel records include  
34 qualifications and licensure that are kept current.
- 35 (a) **Qualifications include confirmation of type and depth of**  
36 **experience, advanced skills, training, and education; and**  
37 **appropriate, detailed and observed competency evaluation**  
38 **and written testing overseen by a person with the same or**  
39 **higher Validated qualifications.**
- 40 (b) **The HCA shall verify with the Department of Regulatory**  
41 **Agencies that all licenses and certifications are valid and**  
42 **current.**

43 Training

- 44 (A) Ongoing training shall be provided to all direct care staff. Training shall consist of at least  
45 12 hours every 12 months after the starting date of employment or calendar year as  
46 designated by agency policy. The training requirement shall be prorated in accordance  
47 with the number of months the employee was actively working for the agency. Training  
48 shall include, but is not limited to, the following items:
- 49 (1) Promoting consumer dignity, independence, self-determination, privacy, choice  
50 and rights; including abuse and neglect prevention and reporting requirements.
- 51 (2) Dealing with difficult people including behavioral management techniques for  
52 cognitively disabled individuals.
- 53 (3) Disaster and Emergency procedures.
- 54 (4) Hygiene and infection control including universal precautions.

- 1 (5) Nutrition and hydration.
- 2 (6) Areas of bathing, skin care, hair care, nail care, shaving, dressing, feeding,  
3 assistance with ambulation, exercises and transfers, positioning, bladder care,  
4 bowel care, medication reminding, homemaking, and protective oversight.
- 5 (7) Basic first aid.
- 6 (8) Basic home safety.
- 7 (B) All training shall be documented. Classroom type trainings shall be documented with the  
8 date of the training; starting and ending times; instructors and their qualifications; short  
9 description of content; and staff member's signature. On-line or self-study trainings shall  
10 be documented with information as to the content of the training; and the entity that  
11 offered or produced the training. All training documentation shall include a copy of any  
12 quiz or other comprehension tool to show the employee understood and properly applied  
13 the training presented.
- 14 Qualifications
- 15 (A) Each employee or contracted staff shall possess the education and experience to  
16 autonomously provide services in the homes of consumers in accordance with  
17 state practice acts and professional standards of practice.
- 18 (B) Licensed, registered or certified healthcare providers shall, at a minimum, meet  
19 the following requirements:
- 20 (1) Be qualified as a Physician, Pharmacist, Physician Assistant, Nurse  
21 Practitioner, Clinical Social Worker, Physical Therapist, Occupational  
22 Therapist, Respiratory Therapist, Registered Nurse, Licensed Practical  
23 Nurse, Massage Therapist, Certified Nurse Aide or other provider  
24 licensed, registered or certified by the Department of Regulatory Affairs.
- 25 (2) Meet the requirements for license, certification or registration set forth by  
26 the Department of Regulatory Affairs.
- 27 (3) Obtain and maintain licensure, certification, or registration per regulatory  
28 requirements.
- 29 (D) A speech-language pathologist shall, at a minimum:
- 30 (1) possess a current Certificate of Clinical Competence in speech  
31 pathology or audiology granted by the American Speech-Language-  
32 Hearing Association, and
- 33 (2) Meet the educational requirements for certification and be in the process  
34 of accumulating the supervised experience required for certification.
- 35 (E) An occupational therapy assistant shall, at a minimum, possess a current  
36 certification from the National Board for Certification of Occupational Therapy  
37 (NBOT).
- 38 (F) A physical therapy assistant shall, at a minimum:
- 39 (1) Have graduated from a two-year college-level program approved by the  
40 American Physical Therapy Association; and
- 41 (2) Have at least one year of directly supervised physical therapy assistant  
42 experience.
- 43 (G) A social work assistant shall, at a minimum:
- 44 (1) Have a baccalaureate degree in social work, psychology, sociology, or  
45 other field related to social work, and
- 46 (2) Have had at least one year of supervised social work experience in a  
47 health care setting.
- 48 (H) An independent living skills trainer shall, at a minimum:
- 49 (1) Be a health care professional with one year of experience in providing  
50 functionally based assessment and skills training of individuals with  
51 disabilities; or

- 1 (2) Be an individual with a bachelor's degree and two years of similar  
2 experiences; or
- 3 (3) Be an individual with an AA degree in social service or human relations  
4 area with three years of experience; or
- 5 (4) Hold certification as a Certified Brain Injury Specialist by the American  
6 Academy for the Certification of Brain Injury Specialists.
- 7 (I) An X-ray technician shall, at a minimum:
- 8 (1) Have successfully completed a program of formal training in X-ray  
9 technology of not less than 24 months in a school approved by the  
10 Committee on Allied Health Education and Accreditation of the American  
11 Medical Association or by the American Osteopathic Association, or
- 12 (2) Have earned a bachelor's or associate degree in radiologic technology  
13 from an accredited college or university.
- 14 (J) A phlebotomist shall, at a minimum, have successfully completed an approved  
15 phlebotomy training course or equivalent experience through previous  
16 employment and have two years of verifiable phlebotomy experience.
- 17 Admissions
- 18 (A) Agencies shall only accept consumers for care and/or services on the basis of a  
19 reasonable assurance that the consumer's needs can be met adequately by the  
20 agency in the individual's place of residence.
- 21 (1) **The agency shall document, at the initial visit and at least every**  
22 **quarter, service or care needs that are required on a specific day or**  
23 **time and those days and times that are preferred by the consumer.**
- 24 (2) **Frequency of intermittent visits for each discipline ordered shall**  
25 **include a general schedule of days of the week and portion of the**  
26 **day (morning, mid-day, evening, night) mutually agreeable to meet**  
27 **the care and service needs of the consumer. Long-hour services or**  
28 **care (more than four-hour visits) shall include days of the week and**  
29 **portion of the day the services are scheduled to begin and number**  
30 **of hours required each visit.**
- 31 (3) **There shall be documentation of the agreed upon days and times of**  
32 **services to be provided. Alterations in the agreed schedule shall be**  
33 **addressed in accordance with section 6.14 of this Chapter.**
- 34 (B) If an agency receives a referral on a consumer who requires care and/or services  
35 that are not available at the time of referral, the agency shall advise the  
36 consumer's primary care provider and the consumer to let them know the  
37 situation. The agency shall only admit the consumer if the primary care provider  
38 and the consumer or consumer's representative agree the ordered services can  
39 be delayed or discontinued. A specific signed medical order from the primary  
40 care provider or signed refusal of service shall be retained in the consumer's  
41 record. If at the time of referral, the primary care provider and/or the consumer  
42 decide the requested services are required, the agency shall contact the referral  
43 source to decline admission of the consumer.
- 44 Administration
- 45 (A) The HCA, under the direction of the governing body, shall prepare an overall plan  
46 and a budget that includes an annual operating budget and capital expenditure  
47 plan (as applicable). The overall plan and budget shall be prepared by a  
48 committee consisting of representatives of the governing body, the administrative  
49 staff, and the medical staff (if any) of the HCA. The overall plan and budget shall  
50 be reviewed and updated at least annually by the committee referred to herein  
51 under the direction of the HCA governing body.
- 52 (B) The HCA shall document either liability insurance coverage or a surety bond in  
53 lieu of liability insurance coverage in the amount of **at least one million dollars**  
54 **(\$1,000,000) per occurrence, three million dollars (\$3,000,000) aggregate.**  
55 Such coverage shall be maintained for the duration of the license period.
- 56 (C) Any HCA that performs procedures in the consumer's residence that are  
57 considered waived clinical laboratory procedures under the Clinical Laboratory

1 Improvement Act of 1988, shall possess a certificate of waiver from **the Centers**  
2 **for Medicare and Medicaid** or its designated agency.

3 (D) The HCA shall have written policies regarding maintenance of consumer's  
4 durable medical equipment, and shall make full disclosure of these policies to all  
5 consumers with durable medical equipment in the home. The policies shall  
6 provide such disclosure to the consumer at the time of admission.

7 **Acceptance of Consumers, Plan of Care and Medical Supervision**

8 (A) Home care consumers shall be accepted for services on the basis of a  
9 reasonable expectation that the consumer's medical, nursing, therapy, and social  
10 needs can be met adequately by the agency in the consumer's place of  
11 residence. Care shall follow a written plan of care established and periodically  
12 reviewed by a doctor of medicine, osteopathy, podiatric medicine, **or attending**  
13 **intermediate care provider.**

14 (B) The plan of care shall be developed in consultation with the agency staff and  
15 **known** external home care service providers. The plan shall cover all pertinent  
16 diagnoses and goals of service, including mental status, types of services and  
17 equipment required, frequency of visits, prognosis, rehabilitation potential,  
18 functional limitations, activities permitted, nutritional requirements, medications  
19 and treatments, any safety measures to protect against injury, instructions for  
20 timely discharge or referral, and any other appropriate items.

21 (C) If a physician or intermediate care provider refers a consumer under a plan of  
22 care that cannot be completed until after an evaluation visit, the attending  
23 physician or attending intermediate care provider shall be consulted to approve  
24 additions or modifications to the original plan. Orders for therapy services shall  
25 include the specific procedures and modalities to be used and the amount,  
26 frequency, and duration. The therapist, other agency personnel, and external  
27 home care providers (where applicable) shall participate in developing the plan of  
28 care.

29 (D) The total plan of care shall be reviewed by the attending physician or attending  
30 intermediate care provider and HCA personnel as often as the severity of the  
31 consumer's condition requires, but at least once every 60 days or more  
32 frequently when there is a ~~beneficiary elected transfer; a significant change in~~  
33 ~~condition resulting in a change in the case mix assignment; or a discharge and~~  
34 ~~return to the same HCA during the 60-day episode.~~

35 (E) Agency professional staff shall promptly alert the physician or attending  
36 intermediate care provider to any changes that suggest a need to alter the plan  
37 of care. **This communication shall be documented in the clinical record**  
38 **with date, time, name of physician or physician representative contacted,**  
39 **name/discipline of staff person making the contact and outcome of**  
40 **communication. If person-to-person contact was not completed or if**  
41 **awaiting return response, all contacts and interactions shall be**  
42 **documented as prescribed in this section. The agency shall have a written**  
43 **policy regarding how the agency will intervene if the attending care**  
44 **provider cannot be contacted or respond timely.**

45 (F) Drugs and treatments shall be administered by agency staff only as ordered by  
46 the physician or intermediate care provider with the exception of influenza and  
47 pneumococcal polysaccharide vaccines, which may be administered per agency  
48 policy developed in consultation with a physician, and after an assessment for  
49 contraindications.

50 (G) Verbal orders shall be put in writing and signed with the date and time of receipt  
51 by the registered nurse or qualified **healthcare professional** responsible for  
52 furnishing or supervising the ordered services. The order shall contain sufficient  
53 information to carry out the order, name of the physician, intermediate care  
54 provider, and if appropriate, representative conferring the order to the HCA.  
55 Verbal orders shall be accepted only by personnel authorized to do so by  
56 applicable state and federal laws and regulations as well as by the HCA's internal  
57 policies.

58 (H) An HCA shall not discontinue or refuse services to a consumer unless  
59 documented efforts have been made to resolve the situation that triggers such  
60 discontinuation or refusal to provide services.

61 Coordination

- 1 (A) The HCA shall be responsible for the coordination of consumer services **both**  
2 **with internal staff and external services providing care and services to the**  
3 **same consumer.** All personnel furnishing services maintain liaison to ensure  
4 that their efforts are coordinated effectively and support the objectives outlined in  
5 the plan of care **and as delineated through outside home care services.**
- 6 (B) The clinical record, **care coordination notes** or minutes of case conferences  
7 establish that effective interchange, reporting, and coordination of consumer care  
8 does occur.
- 9 (C) A written summary report for each consumer shall be ~~sent~~ **documented and**  
10 **made available** to the **attending primary care provider** at least every 60 days.

11 **Skilled Nursing Services**

- 12 (A) The registered nurse shall be responsible for the following:
- 13 (1) The initial evaluation visit,
- 14 (2) Regularly reevaluating the consumer's nursing needs,
- 15 (3) Initiating the plan of care and necessary revisions,
- 16 (4) Furnishing those services requiring substantial and specialized nursing  
17 skill,
- 18 (5) Initiating appropriate preventive and rehabilitative nursing procedures,
- 19 (6) Preparing clinical and progress notes, coordinating services, and  
20 informing the physician and other personnel of changes in the  
21 consumer's condition and needs,
- 22 (7) Counseling the consumer and family in meeting nursing and related  
23 needs, and
- 24 (8) Participating in in-service programs, and supervising and teaches other  
25 nursing personnel.
- 26 (B) The licensed practical nurse shall be responsible for the following:
- 27 (1) Furnishing services in accordance with agency policies,
- 28 (2) Preparing clinical and progress notes,
- 29 (3) Assisting the physician, intermediate care provider and registered nurse  
30 in performing specialized procedures.
- 31 (4) Preparing equipment and materials for treatments, observing aseptic  
32 technique as required, and
- 33 (5) Assisting the consumer in learning appropriate self-care techniques.

34 **Medical Social Services**

35 If the agency furnishes medical social services, those services shall be given by a  
36 qualified social worker or by a qualified social work assistant under the supervision of a  
37 qualified social worker, and in accordance with the plan of care.

38 The social worker shall be responsible for the following:

- 39 (A) Assisting the physician, or intermediate care provider and other team members in  
40 understanding the significant social and emotional factors related to the health  
41 problems,
- 42 (B) Participating in the development of the plan of care,
- 43 (C) Preparing clinical and progress notes,
- 44 (D) Working with the family,
- 45 (E) Using appropriate community resources,
- 46 (F) Participating in discharge planning and in-service programs, and

1 (G) Acting as a consultant to other agency personnel.

2 **Nurse Aide Services**

3 (A) The agency shall select certified nurse aides on the basis of such factors as the  
4 ability to read, write, carry out directions, and effectively communicate with the  
5 consumer and agency staff; to demonstrate competency in the provision of  
6 services and care safely and effectively; and to treat consumers with dignity and  
7 respect to person and property. They shall be supervised in accordance with  
8 [the section on CNA supervision].

9 (B) The agency shall ensure that each nurse aide it employs is certified by the  
10 Colorado Department of Regulatory Agencies within four months of starting  
11 employment. Certification shall be attained within one year of completion of an  
12 approved nurse aide program and shall remain current. A complete competency  
13 assessment with direct observation shall be completed before employment in  
14 accordance with [the section on certified nurse aide training and orientation].  
15 Each aide providing care and services without benefit of certification shall be  
16 supervised in the home by direct observation at least every weekly for the first  
17 month of employment and every two weeks thereafter.

18 (C) For all consumers who need certified nurse aide services, the supervising ~~nurse~~  
19 **healthcare professional** shall, during supervisory visits, accomplish the  
20 following:

21 (1) Obtain the consumer's input, or that of the consumer's designated  
22 representative, regarding the ~~home health/~~ **certified** nurse aide  
23 assignment form, including all home health/nurse aide tasks to be  
24 performed during each scheduled time period.

25 (a) Details such as, but not limited to, housekeeping duties and  
26 standby assistance, shall be negotiated and included on the  
27 ~~home health~~ **certified nurse** aide assignment form so that all  
28 obligations and expectations are clear.

29 (b) The **certified** nurse aide assignment form shall contain  
30 information regarding special functional limitations and needs,  
31 safety considerations, special diets, special equipment, and any  
32 other information that is pertinent to the care that will be given by  
33 the aide.

34 (c) The HCA shall ensure that the consumer or the consumer's  
35 designated representative **approves and** signs the form and is  
36 provided a copy at the beginning of services and at least once  
37 per year thereafter.

38 (d) **The registered nurse shall make an on-site supervisory visit**  
39 **to the consumer's home no less frequently than every two**  
40 **weeks to supervise the certified nurse aide. When other**  
41 **skilled services are being provided by the agency, the**  
42 **certified nurse aide may be supervised by another**  
43 **healthcare professional in accordance with the**  
44 **professional's scope of practice and state and federal law.**  
45 **Direct observation of care being provided by the nurse aide**  
46 **shall occur at least every 60 days. More frequent direct**  
47 **supervision shall occur if there are adverse changes in the**  
48 **consumer's condition, complaints received associated with**  
49 **the provision of care by an aide, supervision requested by**  
50 **the CNA or consumer for specific issues, or other matters**  
51 **concerning the provisions of care by the CNA.**

52 (e) **If home health aide services are provided to a consumer**  
53 **who is not receiving in-home care by a health professional,**  
54 **a supervisory visit with the nurse aide present at the**  
55 **consumer's home shall occur no less frequently than every**  
56 **60 days. More frequent direct supervision shall occur if**  
57 **there are adverse changes in the consumer's condition,**  
58 **complaints received associated with the provision of care**  
59 **by an aide, supervision requested by the CNA or consumer**  
60 **for specific issues, or other matters concerning the**  
61 **provisions of care by the CNA.**

62 (2) Provide each consumer and/or the consumer's designated  
63 representative, a new copy of the Consumer Rights form and explain

1 those rights whenever the home health/nurse aide assignment form is  
2 renegotiated and rewritten.

3 (D) In addition to any other exclusions set forth herein, the agency shall not allow  
4 non-relative care providers to:

5 (1) Become or act as a Power of Attorney, or

6 (2) Be involved in any financial transactions of the consumer, including  
7 check writing or account management, outside of contracted services  
8 such as grocery shopping or running general errands. In such cases, the  
9 HCA worker shall follow agency policies in regard to securing receipts for  
10 items purchased and ensuring both consumer and worker signatures  
11 documenting those expenditures.

12 Certified Nurse Aide Training and Orientation

13 (A) The HCA shall ensure that skills learned or tested elsewhere can be transferred  
14 successfully to the care of the consumer in his/her place of residence. This  
15 review of skills could be done when the nurse installs an aide into a new  
16 consumer care situation, during a supervisory visit, or as part of the annual  
17 performance review. A mannequin may not be used for this evaluation.

18 (B) If the HCA's admission policies and the case-mix of HCA consumers demand  
19 that the aide care for individuals whose personal care and basic nursing or  
20 therapy needs require more complex training than the minimum required in the  
21 regulation, the HCA shall document how these additional skills are taught and  
22 validated.

23 (C) The HCA shall establish a process for standardized, step-by-step observation  
24 and evaluation of certified nurse aide competency in the following subject areas  
25 at the time of initial hire; **hands-on tasks may be competency tested at**  
26 **anytime prior to the assignment of tasks.**

27 (1) Communications skills.

28 (2) Observation, reporting and documentation of consumer status and the  
29 care or service furnished.

30 (3) Reading and recording temperature, pulse, and respiration.

31 (4) Basic infection control procedures.

32 (5) Basic elements of body functioning and changes in body function that  
33 shall be reported to an aide's supervisor.

34 (6) Maintenance of a clean, safe, and healthy environment.

35 (7) Recognizing emergencies and knowledge of emergency procedures.

36 (8) The physical, emotional, and developmental needs of and ways to work  
37 with the populations served by the HCA, including the need for respect  
38 for the consumer, his or her privacy and his or her property.

39 (9) Appropriate and safe techniques in personal hygiene and grooming that  
40 include:

41 (a) Bathing

42 (i) Bed/sponge,

43 (ii) Tub, and

44 (iii) Shower.

45 (b) Shampoo

46 (i) Sink,

47 (ii) Tub, and

48 (iii) Bed.

49 (c) Nail and skin care.

- 1 (d) Oral hygiene.
- 2 (e) Toileting and elimination.
- 3 (10) Safe transfer techniques and ambulation.
- 4 (11) Normal range of motion and positioning.
- 5 (12) Adequate nutrition and fluid intake.

6 **Therapy Services**

7 Any therapy services offered by the HCA directly or under arrangement are given by a  
8 qualified therapist or by a qualified therapy assistant under the supervision of a qualified  
9 therapist and in accordance with the plan of care. The qualified therapist assists the  
10 physician or intermediate care provider in evaluating level of function, helps develop the  
11 plan of care (revising it as necessary), prepares clinical and progress notes, advises and  
12 consults with the family and other agency personnel, and participates in in-service  
13 programs.

14 **Supervision of therapy assistants**

- 15 (A) Services furnished by a qualified physical, occupational, or respiratory therapy  
16 assistant may be furnished under the supervision of a qualified physical,  
17 occupational or respiratory therapist. A physical therapy assistant or occupational  
18 therapy assistant performs services directed from a written plan of care,  
19 delegated, and supervised by the therapist, assists in preparing clinical notes and  
20 progress reports, and participates in educating the consumer and family, and in  
21 in-service programs. Onsite supervision shall occur at least once every 30 days  
22 and at least every 60 days with the assistant present.
- 23 (B) Speech therapy services shall be furnished only by a qualified speech pathologist  
24 or audiologist.

25 **Comprehensive Assessment of Consumers**

26 Each consumer shall receive, and an HCA shall provide, a consumer-specific,  
27 comprehensive assessment that accurately reflects the consumer's current health status  
28 and includes information that may be used to demonstrate the consumer's progress  
29 toward achievement of desired outcomes. The comprehensive assessment shall identify  
30 the consumer's continuing need for home care and meet the consumer's medical,  
31 nursing, rehabilitative, social, and discharge planning needs.

32 **Initial assessment visit**

- 33 (A) A registered nurse shall conduct an initial assessment visit to determine the  
34 immediate care and support needs of the consumer. The initial assessment visit  
35 shall be held either within 48 hours of referral, or within 48 hours of the  
36 consumer's return home, or on the attending provider ordered start of care date.
- 37 (B) When an alternate professional healthcare service is the only service ordered,  
38 the initial assessment visit may be made by the appropriate skilled healthcare  
39 professional.

40 **Comprehensive assessment**

- 41 (A) The comprehensive assessment shall be completed in a timely manner,  
42 consistent with the consumer's immediate needs, but no later than five calendar  
43 days after the start of care.
- 44 (B) Except as otherwise indicated in this section, a registered nurse shall complete  
45 the comprehensive assessment.
- 46 (C) When a healthcare service other than nursing is the only service ordered by the  
47 physician, the primary professional healthcare worker may complete the  
48 comprehensive assessment.
- 49 (D) The comprehensive assessment shall include a documented review of all  
50 medications the consumer is currently using in order to identify any potential  
51 adverse effects and drug reactions, including ineffective drug therapy, significant  
52 side effects, significant drug interactions, duplicate drug therapy, and  
53 noncompliance with drug therapy.

1 (E) The comprehensive assessment shall be updated and revised as frequently as  
2 the consumer's condition warrants due to a major decline or improvement in the  
3 consumer's health status, but not less frequently than:

4 (1) A minimum of every 60 days beginning with the start-of-care date; and

5 (2) Within 48 hours of the consumer's return to the home from a hospital  
6 admission of 24 hours or more for any reason other than diagnostic  
7 tests.

8 **Non-Medical /Personal Care**  
9 **Governing Body**

10 (A) Each agency shall have a governing body having legal authority and  
11 responsibility for the conduct of the agency. At least one member shall be a  
12 **Colorado resident** and have knowledge of the agency operations. For purposes  
13 of this Section, this would include but not necessarily be limited to LLCs, sole  
14 proprietorships, corporations, associations and partnerships.

15 (B) For the purposes of this section, the governing body shall:

16 (1) Have bylaws or the equivalent, which shall be reviewed and be revised  
17 as needed. They shall be made available to all members of the  
18 governing body and a signed copy or acknowledgement of receipt and  
19 understanding kept on file in the agency.

20 (2) The bylaws or the equivalent shall specify the objectives of the agency.

21 (3) Designate and employ an agency manager.

22 (4) Adopt and review annually and revise as needed, policies and  
23 procedures for the operation and administration of the agency.

24 (5) Review the operation of the agency at least annually.

25 (6) Keep minutes of all meetings.

26 (7) Provide and maintain a fixed office location, that provides for consumer  
27 confidentiality and a safe working environment in compliance with local  
28 ordinances and fire regulations.

29 **Administration**

30 (A) The agency shall have written administrative policies and procedures to ensure  
31 safe and adequate care of the consumer.

32 (B) The agency shall show evidence of either liability insurance coverage or a surety  
33 bond in lieu of liability insurance coverage in the amount of **at least one**  
34 **hundred thousand dollars (\$100,000) per occurrence, three hundred**  
35 **thousand dollars (\$300,000) aggregate**. Such coverage shall be maintained  
36 for the duration of the license period.

37 (C) The agency shall develop, implement and have written policies in place for  
38 complaint resolution.

39 **Agency Manager**

40 (A) A personal care services agency shall designate a person to supervise the  
41 provision of services through the licensed home care personal services agency.

42 (B) The agency manager shall meet the following qualifications:

43 (1) Be at least 21 years of age, **possess a high school diploma or GED**,  
44 at least one year documented supervisory experience in the provision of  
45 personal care services.

46 (2) Be able to communicate and understand return communication  
47 effectively in exchanges between the consumer, family representatives,  
48 and other providers.

49 (3) Have successfully completed a 20-hour agency manager-training course.

50 (a) Any person commencing service as an agency manager after  
51 **January 1, 2011**, shall meet the minimum training requirements

1 approved by the Department pursuant to [the appropriate section  
2 of this Chapter]; or provide documented and confirmed previous  
3 job related experience or related education equivalent to  
4 successful completion of such program. The Department may  
5 require additional training to ensure that all the required  
6 components of the training curriculum are met.

7 (b) The Certificate of Completion shall be retained in the agency  
8 manager's personnel file.

9 (c) Any person already serving as an agency manager on  
10 **December 31, 2010** shall either meet subparagraph (3) above or  
11 meet the minimum training requirements in one of the following  
12 ways:

13 (i) Successful completion of a program approved by the  
14 Department, pursuant to Section C, if completed within a  
15 period of six (6) months following **January 1, 2011**;

16 (ii) Submission of evidence of successful completion of  
17 such training within the previous five (5) years before  
18 **January 1, 2011**; and

19 (iii) Documented and confirmed previous job related  
20 experience equivalent to successful completion of such  
21 a program.

22 (4) Be familiar with all applicable local, state, and federal laws and  
23 regulations concerning the operation and provision of home care  
24 services.

25 (C) Agency Manager Training

26 (1) A program of certification shall be approved by the Department if:

27 (a) The program or program components are conducted by an  
28 accredited college, university or vocational school; or an  
29 organization, association, corporation, group, or agency with  
30 specific expertise in that area; and the curriculum includes at  
31 least twenty (20) actual hours of training.

32 (b) Instruction includes, at a minimum, discussion of each the  
33 following topics:

34 - Home care overview **including other agency types providing**  
35 **services and how to interact and coordinate with each.**

36 - Regulatory responsibilities and compliance including but not  
37 limited to: consumer rights, governing body responsibilities,  
38 quality management plans, occurrence reporting, and complaint  
39 investigation and resolution process.

40 - Personnel – qualifications, experience, competency and  
41 evaluations

42 - Financial management

43 - Ethics in healthcare

44 - Needs of the fragile, ill and physically and cognitively disabled  
45 in the community setting.

46 - Dealing with difficult people

47 - Staffing methodologies and oversight of scheduling

48 - Staff training and supervision

49 - Limitations of personal care versus health care services.

50 (D) Agency Manager Training

51 The agency manager shall have the following responsibilities:

- 1) Ensure that the agency is in compliance with all applicable federal, state and local laws,
- 2) Be familiar with the applicable rules of the Department and maintain them within the agency,
- 3) Familiarize all employees with the law and the rules of the Department and make copies available for their use,
- 4) Ensure the completion, maintenance and submission of such reports and records as required by the Department,
- 5) Maintain ongoing liaison with the governing body, staff members and the community,
- 6) Maintain a current organizational chart to show lines of authority down to the consumer level,
- 7) Provide for the management of the business affairs and the overall operation of the agency,
- 8) Maintain appropriate personnel records, financial and administrative records and all policies and procedures of the agency,
- 9) Employ qualified personnel in accordance with written job descriptions,
- 10) Provide orientation of new staff, regularly scheduled in-service education programs and opportunities for continuing education for the staff,
- 11) Designate in writing the qualified staff member to act in the absence of the manager, and
- 12) Ensure the availability of the manager or designee at all hours employees are providing services, at minimum any eight-hour period between 7 a.m. and 7 p.m. Monday through Friday.

Staffing and Staff Responsibilities

Supervisor

(A) The supervisor shall:

Be at least 18 years of age,

Have appropriate experience in the home care industry or closely related personal care services in accordance with agency policy, and

Training in the provision of non-medical home care.

Personal Care Worker

(A) A personal care worker shall be 18 years old, have completed agency training, or have verified experience in the provision of home care tasks to consumers and passed a competency evaluation.

(B) Personal care service employees shall provide services in accordance with the policies and requirements of the agency as well as the service arrangements spelled out in the consumer contract.

(C) The duties of personal care worker may include the following:

(1) Observation and maintenance of the home environment that ensures the safety and security of the consumer.

(2) Assistance with household chores including cooking and meal preparation, cleaning, and laundry.

(3) Assistance in completing activities such as shopping, and appointments outside the home.

(4) Companionship, including but not limited to social interaction, conversation, emotional reassurance, and encourage reading, writing and activities that stimulate the mind.

(5) Assistance with activities of daily living and personal care.

- 1 (6) Completion of appropriate encounter/service notes regarding service  
2 provision each visit. **Documentation shall contain services provided,**  
3 **date and time in and out and a confirmation that care was provided.**  
4 **Such confirmation shall be according to agency policy.**
- 5 (D) In order to delineate the types of services that can be provided by a personal  
6 care service worker, the following are examples of limitations where skilled home  
7 health care would be needed to meet higher needs of the consumer.
- 8 (1) Skin Care. A personal care worker may perform general skin care  
9 assistance. Skin care may be performed by a personal care service  
10 worker only when skin is unbroken, and when any chronic skin problems  
11 are not active. The skin care provided by a personal care worker shall  
12 be preventative rather than therapeutic in nature and, may include the  
13 application of non-medicated lotions and solutions, or of lotions and  
14 solutions not requiring a physician's prescription. Skilled skin care shall  
15 be provided by an agency licensed as a home health or professional  
16 home care agency as applicable. Skilled skin care includes wound care,  
17 dressing changes, application of prescription medications, skilled  
18 observation and reporting.
- 19 (2) Ambulation. A personal care worker may generally assist consumers  
20 with ambulation who have the ability to balance and bear weight. If the  
21 consumer has been determined by a health professional to be  
22 independent with an assistive device, a personal services worker may be  
23 assigned to assist with ambulation. Consumers in the process of being  
24 trained to use adaptive equipment for ambulation, such as walkers,  
25 canes or wheelchairs, require supervision by an agency licensed to  
26 provide home health or professional home care agency services during  
27 the period of their training.
- 28 (3) Bathing. A personal care worker may assist consumers with bathing.  
29 When a consumer has skilled skin care needs or skilled dressings that  
30 will need attention before, during or after bathing, the consumer should  
31 be in the care of an agency licensed as a home health agency or a  
32 professional home care agency to meet those specific needs.
- 33 (4) Dressing. A personal care worker may assist a consumer with dressing.  
34 This may include assistance with ordinary clothing and application of  
35 support stockings of the type that can be purchased without a physician's  
36 prescription. A personal care service worker may not assist with  
37 application of an Ace bandage and anti-embolic or pressure stockings  
38 that can be purchased only with a physician's prescription.
- 39 (5) Exercise. A personal care worker may assist a consumer with exercise.  
40 However, this does not include assistance with a plan of exercise  
41 prescribed by a licensed health care professional. A worker may remind  
42 the consumer to perform ordered exercise program. Assistance with  
43 exercise that can be performed by a personal care service worker is  
44 limited to the encouragement of normal bodily movement, as tolerated,  
45 on the part of the consumer and, encouragement with a prescribed  
46 exercise program. Passive range of motion (ROM) may not be  
47 performed by a personal care worker.
- 48 (6) Feeding. Assistance with feeding may generally be performed by a  
49 personal service worker. Personal care workers can assist consumers  
50 with feeding when the consumer can independently chew and swallow  
51 without difficulty and be positioned upright. Assistance by a personal  
52 care worker does not include syringe, tube feedings and intravenous  
53 nutrition. Whenever there is a high risk that the consumer may choke as  
54 a result of the feeding the consumer should be in the care of an agency  
55 licensed as a home health or professional home care agency to fulfill this  
56 function.
- 57 (7) Hair care. As a part of the broader set of services provided to  
58 consumers who are receiving personal services, personal care service  
59 agencies may assist consumers with the maintenance and appearance  
60 of their hair. Hair care within these limitations may include shampooing  
61 with non-medicated shampoo or shampoo that does not require a  
62 physician's prescription, drying, combing and styling of hair.
- 63 (8) Mouth care. A personal care worker may assist and perform mouth care.  
64 This may include denture care and basic oral hygiene. Mouth care for  
65 consumers who are unconscious, has difficulty swallowing or at risk for

- 1 choking and aspiration should be performed by an agency licensed as  
2 home health agency or professional home care agency.
- 3 (9) Nail care. Assistance with nail care can be generally performed by a  
4 personal care worker. This assistance may include soaking of nails,  
5 pushing back cuticles without utensils, and filing of nails. Assistance by  
6 a personal care worker may not include nail trimming. Consumers with a  
7 medical condition that might involve peripheral circulatory problems or  
8 loss of sensation should be under the care of an agency licensed as a  
9 home health agency or professional home care agency to meet this  
10 need.
- 11 (10) Positioning. A personal care worker may assist a consumer with  
12 positioning when the consumer is able to identify to the personal care  
13 staff, verbally, non-verbally or through others, when the positions needs  
14 to be changed AND only when skilled skin care, as previously described,  
15 is not required in conjunction with the positions. Positioning may include  
16 simple alignment in a bed, wheelchair, or other furniture.
- 17 (11) Shaving. A personal care worker may assist a consumer with shaving  
18 only with an electric or a safety razor.
- 19 (12) Toileting. A personal care worker may assist a consumer to and from  
20 the bathroom, provide assistance with bedpans, urinals, and commodes;  
21 pericare; or changing of clothing and pads of any kind used for the care  
22 of incontinence.
- 23 (13) A personal care worker may empty urinary collection devices, such as  
24 catheter bags. In all cases, the insertion and removal of catheters and  
25 care of external catheters is considered skilled care and may NOT be  
26 performed by a personal care service worker.
- 27 (14) A personal care worker may empty ostomy bags and provide assistance  
28 with other consumer-directed ostomy care only when there is no need for  
29 skilled skin care or for observation or reporting to a nurse. An in-home  
30 personal care worker may not perform digital stimulation, insert  
31 suppositories or give an enema.
- 32 (15) Transfers. A personal care worker may assist with transfers only when  
33 the consumer has sufficient balance and strength to reliably stand and  
34 pivot and assist with the transfer to some extent. Adaptive and safety  
35 equipment may be used in transfers, provided that the consumer and  
36 personal care service worker is fully trained in the use of the equipment  
37 and can direct the transfer step by step. Adaptive equipment may  
38 include, but is not limited to wheel chairs, tub seats and grab bars. Gait  
39 belts may be used in a transfer as a safety device for the personal care  
40 service worker as long as the worker has been properly trained in its use.
- 41 (a) A personal care worker shall not perform assistance with  
42 transfers when the consumer is unable to assist with the transfer.  
43 In-home services workers, with training and demonstrated  
44 competency, may assist a consumer in a transfer involving a lift  
45 device.
- 46 (16) Medication reminding. A personal care worker may assist a consumer  
47 with medication reminding only when medications have been  
48 preselected, by the consumer, a family member, a nurse, or a  
49 pharmacist, and are stored in containers other than the prescription  
50 bottles, such as medication minders. Medication minder containers shall  
51 be clearly marked as to day and time of dosage, and reminding includes:  
52 inquiries as to whether medications were taken; verbal prompting to take  
53 medications; handing the appropriately marked medication minder  
54 container to the consumer; and, opening the appropriately marked  
55 medication minder container for the consumer if the consumer is  
56 physically unable to open the container. These limitations apply to all  
57 prescription and all over-the-counter medications. Any irregularities  
58 noted in the pre-selected medications, such as medications taken too  
59 often or not often enough, or not at the correct time as marked in the  
60 medication minder container, shall be reported immediately by the  
61 personal care service worker to the supervisor.
- 62 (17) Respiratory care is considered skilled care and may NOT be performed  
63 by a personal care worker. Respiratory care includes postural drainage,  
64 cupping, adjusting oxygen flow within established parameters, nasal,

- 1 endotracheal, and tracheal suctioning, and turning off or changing tanks.  
2 However, personal care workers may temporarily remove and replace a  
3 cannula or mask from the consumer's face for the purposes of shaving,  
4 washing a consumer's face.
- 5 (18) Accompaniment. Accompanying the consumer to medical appointments,  
6 banking errands, basic household errands, clothes shopping, and  
7 grocery shopping to the extent necessary and as specified on the service  
8 plan may be performed by the personal care worker when all the care  
9 that is provided by the personal care staff in relation to the trip is  
10 unskilled personal care, as described in these regulations.
- 11 (19) Protective Oversight. A personal care worker may provide protective  
12 oversight including stand-by assistance with any personal care task  
13 described in these regulations. When the consumer requires protective  
14 oversight to prevent wandering, the personal care worker shall have  
15 been trained in appropriate intervention and redirection techniques.
- 16 (20) Respite Care and Companionship. A personal care worker may provide  
17 respite and companionship in the consumer's home according to the  
18 service plan as long as the necessary provision of services during this  
19 time does not include skilled personal care services as described in this  
20 regulation.
- 21 (21) Housekeeping Services. A personal care worker may provide  
22 housekeeping services, such as dusting, vacuuming, mopping, cleaning  
23 bathroom and kitchen areas, meal preparation, dishwashing, linen  
24 changes, laundry, and shopping in accordance with the service contract.  
25 Where meal preparation is provided, the personal care worker should  
26 receive instruction regarding any special diets required to be prepared.
- 27 (E) In addition to the exclusions prescribed in the preceding section, the agency shall  
28 not allow personal care workers to:
- 29 (1) Perform skilled personal care services as defined in this section;
- 30 (2) Perform or provide medication set-up for a consumer; or
- 31 (3) Perform other actions specifically prohibited by agency policy,  
32 regulations or law.
- 33 (F) In addition to the exclusions prescribed in the preceding section, the agency shall  
34 not allow non-relative care providers to:
- 35 (1) Become or act as a Power of Attorney, or
- 36 (2) Be involved in any financial transactions of the consumer, including  
37 check writing or account management, outside of contracted services  
38 such as grocery shopping or running general errands. In such cases, the  
39 HCA worker shall follow agency policies in regard to securing receipts for  
40 items purchased and ensuring both consumer and worker signatures  
41 documenting those expenditures.
- 42 (g) Supervision of a personal care worker shall:
- 43 (1) Be performed by a qualified employee of the agency who is in a  
44 designated supervisory capacity and available to the worker for  
45 questions at all times;
- 46 (2) Provide on-site supervision at a minimum every 90 days and includes an  
47 assessment of consumer satisfaction with services and the personal care  
48 worker's adherence to the service plan.
- 49 (3) Include evaluation of each personal care worker providing services at  
50 least annually. The evaluation shall include observation of tasks  
51 performed and relationship with the consumer.
- 52 (4) Not constitute time or an activity that can be billed as a service to the  
53 consumer.

54 In-Home Personal Care Worker Training

- 55 (A) The agency is responsible for assuring that the individuals who furnish personal care  
56 services on its behalf are competent to carry out all assigned tasks in the consumer's

1 place of residence. Proof of a competency evaluation conducted by the agency manager  
2 or via another qualified representative of the agency shall address each of the following  
3 subjects:

- 4 (1) The employee's job responsibilities and limitations.
- 5 (2) Communication skills in areas such as with persons, who are hard of hearing,  
6 have dementia, or other special needs.
- 7 (3) Observation, reporting and documentation of consumer status and the service  
8 furnished.
- 9 (4) Performance and supervisory observation of personal care tasks for consumers  
10 including but not limited to: bathing, skin care, hair care, nail care, mouth care,  
11 shaving, dressing, feeding, assistance with ambulation, exercise and transfers,  
12 positioning, bladder and bowel care, and medication reminding.
- 13 (5) Performance of ability to assist in the use of specific adaptive equipment if the  
14 worker will be assisting consumers who use the device.
- 15 (6) Basic hygiene and basic infection control practices.
- 16 (7) Maintenance of a clean, safe and healthy environment, including appropriate  
17 cleaning techniques, and sanitary meal preparation.
- 18 (8) Basic personal and environmental safety precautions.
- 19 (9) Recognizing emergencies and knowledge of emergency procedures including  
20 basic first aid.
- 21 (10) Confidentiality of consumer personal, financial and health information;
- 22 (11) Knowledge and understanding of abuse and neglect prevention and reporting  
23 requirements.
- 24 (12) Any other task that the agency may choose to have the worker perform that is  
25 not skilled care.

26 (B) The agency shall ensure the employee can demonstrate knowledge and  
27 competency in personal care tasks before independent assignment. All personal  
28 care staff shall complete agency orientation before independently providing  
29 services to consumers. A minimum of 16 hours of training within the first 45  
30 days of employment shall be provided, inclusive of orientation, which can include  
31 self-study courses with demonstration of learned concepts, and are applicable to  
32 the employee's responsibilities.

- 33 (1) Orientation shall include:
  - 34 - Employee duties and responsibilities
  - 35 - Consumer Rights including freedom from abuse or neglect, and  
36 confidentiality of consumer information and records.
  - 37 - Hand washing and Infection Control
  - 38 - Assignment and supervision of services
  - 39 - Documentation of consumer needs and services provided
  - 40 - Emergency response policies and emergency contact numbers for the  
41 agency and for the individual consumer assigned
  - 42 - Other appropriate training based on the special needs of the consumers  
43 for which the employee is assigned to provide services before  
44 completion of initial training.
  - 45 - Training and competency evaluation of appropriate and safe  
46 techniques in all personal care tasks for each assigned task to be  
47 conducted before completion of initial training.
- 48 (2) Initial Training shall include, but is not limited to:
  - 49 - The roles of, and coordination with, other community services  
50 providers.
  - 51 - Description of services provided by the agency
  - 52 - Appropriate training in accordance with needs of special needs  
53 populations served by the agency.
  - 54 - Recognizing and responding to suspected medical emergencies

- 1 - Dealing with difficult people and adverse behaviors including  
2 behavioral management techniques for cognitively disabled  
3 individuals.
- 4 - Methods and techniques to prevent skin breakdown, contractures and  
5 falls.
- 6 - Differences in personal care, CNA care and health care in the home.  
7 Including limiting factors for the provision of personal care.
- 8 - Ethics and expectations of the agency
- 9 - Home and fire safety
- 10 - Basic First Aid
- 11 - Nutrition and hydration, including special diets, meal preparation, and  
12 service.
- 13 - Appropriate and safe techniques in all personal care tasks. Areas  
14 include bathing, skin care, hair care, nail care, mouth care, shaving,  
15 dressing, feeding, assistance with ambulation, exercises and transfers,  
16 positioning, bladder care, bowel care, medication reminding,  
17 homemaking tasks, and protective oversight.
- 18 (3) Initial orientation and training shall not be required for returning employees under  
19 the following conditions:
  - 20 - The employee completed training and competency assessment  
21 required by this section by the employing agency at the time of initial  
22 employment.
  - 23 - The employee had completed employment or became inactive no more  
24 than 12 months before the date of rehire or reactivation.
  - 25 - The employee did not have direct care performance issues in the prior  
26 active period of employment.
  - 27 - All orientation, training, and personnel action documentation is  
28 retained in personnel files.
- 29 (4) Employees with proof of current healthcare related licensure or certification are  
30 exempt from training in the provision of personal care tasks as long as such  
31 training is recognized as included in the training for that health discipline. The  
32 agency shall perform a competency evaluation to ensure the employee is able to  
33 appropriately perform all personal care tasks. All other training requirements  
34 shall apply.
- 35 (5) Employees moving from one office to another in the same agency are not subject  
36 to additional training requirements, provided previous training is documented and  
37 the offices have the same orientation and training procedures.
- 38 (C) Ongoing training shall be provided to all direct care staff. Training shall consist of at least  
39 12 hours every 12 months after the starting date of employment or calendar year as  
40 designated by agency policy. The training requirement shall be prorated in accordance  
41 with the number of months the employee was actively working for the agency. Training  
42 shall include, but is not limited to, the following items:
  - 43 (1) Promoting consumer dignity, independence, self-determination, privacy, choice  
44 and rights; including abuse and neglect prevention and reporting requirements.
  - 45 (2) Dealing with difficult people including behavioral management techniques for  
46 cognitively disabled individuals.
  - 47 (3) Disaster and Emergency procedures.
  - 48 (4) Hygiene and infection control including universal precautions.
  - 49 (5) Nutrition and hydration.
  - 50 (6) Areas of bathing, skin care, hair care, nail care, shaving, dressing, feeding,  
51 assistance with ambulation, exercises and transfers, positioning, bladder care,  
52 bowel care, medication reminding, homemaking, and protective oversight.
  - 53 (7) Basic first aid.
  - 54 (8) Basic home safety.
- 55 (D) All training shall be documented. Classroom type trainings shall be documented with the  
56 date of the training; starting and ending times; instructors and their qualifications; short

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1 description of content; and staff member's signature. On-line or self-study trainings shall  
2 be documented with information as to the content of the training; and the entity that  
3 offered or produced the training. All training documentation shall include a copy of any  
4 quiz or other comprehension tool to show the employee understood and properly applied  
5 the training presented.  
6